THE

ANTI-SLAVERY REPORTER,

UNDER THE SANCTION OF

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Monthly Summary.

DOMESTIC.—On the 30th of January ultimo, a lecture upon the Disunion Crisis in the United States was delivered by Mr. F. P. Audré, at the Whittington Club. It was extremely interesting, the lecturer—who has only recently returned from America—exhibiting a perfect knowledge of the parties at issue. He advocates secession as the only solution of the Slavery question, and is of opinion that the seceding States ought to be allowed to withdraw from the Union, and that it would be a great mistake if the Federal authorities attempted to coerce them to remain in it.

On Friday, the 8th ultimo, Mr. H. B. Sheridan rose in his place in the House of Commons, and asked whether Her Majesty's Government had taken any steps to bring the Ashburton Treaty to an end, in consequence of the claim made by the American Government for the rendition of the fugitive slave, John Anderson. Mr. Collier and Mr. Warner followed with similar questions. Lord Palmerston in reply stated, that on the 9th of January the Duke of Newcastle had instructed the Governor-General of Canada not to surrender Anderson until the question shall have been fully discussed by the Home Government, and until instructions are sent to him from hence. In our Parliamentary column a record of the proceedings will be found.

On Friday, the 9th ultimo, a deputation, consisting of members of the Council and Executive Committee of the *African-Aid Society*, and of other gentlemen who sympathize with its objects, waited upon Lord Palmerston, for the purpose of presenting Memorials for the appointment of a High Commissioner to Dahomey, to treat with him for the suppression of the slave-trade in his dominions. The deputation consisted of the following noblemen and gentlemen—Lord Calthorpe, (Vice-President of the *African-Aid Society*;) Lord A. S. Churchill, M.P. (Chairman of the Executive Committee;) Sir Culling E. Eardley, Bart.; Charles Buxton, Esq., M.P.; Joseph Somes, Esq., M.P.; Richard Spooner, Esq., M.P.; Arthur Miller, Esq., M.P.; the Right Rev. the Bishop of Down and Connor; the Rev. Dr. Tidman, (*London Missionary Society*;) the Rev. W. Arthur, (*Wesleyan Missionary Society*;) the Rev. F. Trestrail, (*Baptist Missionary Society*;) the Rev. P. Latrobe, (*Moravian Missionary Society*;) The Rev. Dr. Arnold; C. W. Eddy, Esq, M.D.; Gerald Ralston, Esq., (Consul-General for Liberia;) Messrs. Arthur, Albright, and Partridge, (Hon. Secs. of the *Birmingham Auxiliary of the African-Aid Society*;) Mr. G. W. Hastings, (*Worcester Chamber of Commerce*;) Mr. M. D. Hollins, [*President of the Staffordshire Potteries Chamber of Commerce*;) Mr. R. N. Fowler; Mr. Thomas Clegg, (Manchester Auxiliary of the *African-Aid Society*;) Mr. John Foulkes, of Aberdovey; Mr. Edward Schenley; Mr. E. G. Banner; Mr. W. E. Shipton; Mr. C. L. Gruneisen; and Messrs. Henry Pownall, J. L. M'Leod, and the Rev.

W. Cardall, (Honorary Secretaries of the *African-Aid Society*.) Memorials were presented from the Council and Committee of the Society, and from merchants and others, signed by many of the principal firms in the City of London; a Memorial, signed by the President of the *Chamber of Commerce*, and by the leading merchants and manufacturers of the City of Glasgow; a Memorial from the *Chamber of Commerce at Worcester*, signed by the President; a Memorial from the *Chamber of Commerce at Hull*, signed by the President; and a Memorial from the *Chamber of Commerce for the Staffordshire Potteries at Hanley*, signed by the President.

Lord A. S. Churchill introduced the deputation, and read the Memorial, which set forth that a subsidy to the King of Dahomey might be offered him, as an inducement to discontinue the slave-trade, and that the amount would be saved by a corresponding diminution in the cost of the African squadron. His Lordship referred to the sensation produced in this country by the late atrocities of the King of Dahomey, and shewed that to his active support the continuance of the slave-trade in the Bight of Benin is solely owing. He proved, by reference to returns, the immense natural capabilities of Abbeokuta, the Yoruba country, and the valley of the Niger district for cotton-growing, and contended that the King of Dahomey's incursions impeded its cultivation and legitimate commerce. The immigrants, accustomed to cotton-planting, &c., that the *African-Aid Society* were about to introduce from America, would soon make the country of immense importance if that king could be detached from the slave-trade. It was the native home of cotton, and could supply all England's needs, if proper means were taken to promote its cultivation.

Sir Culling E. Eardley alluded to the double action of the Society in America and in Africa; shewed the influence the removal of the free coloured population from the United States to Africa must exercise on Slavery and the slave-trade; and strenuously insisted that the contemplated measure was sound in policy and humane and Christian in practice.

Mr. Arthur Albright spoke of the unanimity of Birmingham as regards the contemplated operations of the *African-Aid Society*, and the prayer of the Memorials presented. He censured the misdirection of effort hitherto, and said that all Birmingham, from the banker to the mechanic, was moved upon these questions. Abbeokuta, and Yoruba generally, with its 800,000 square miles of cotton-growing country, at only 300 miles from England, was England's national arm of safety for cotton.

Mr. Spooner, M.P., also spoke of the strong feeling prevailing in Birmingham on the subject.

Mr. Clegg, of Manchester, observed, that while a persistent action, begun by him in 1850, in Abbeokuta, had produced 240 lbs. of cotton in 1851 and 1852, which was all that could be got by the greatest efforts, it had advanced in 1857 to 1800 bales, and in 1859 to 3370; but the unfortunate activity of the King of Dahomey was now reducing it, instead of its reaching 20,000 bales in 1800, as it would have done but for the discouragements and impediments his efforts created.

Mr. Edward G. Banner spoke from experience of the enormous capabilities of Africa and its people, and the importance of changing the system of such a man as the King of Dahomey.

Mr. J. Lyons M'Leod read extracts from the interviews of Mr. Buxton and Captain Forbes with the father of the present king, in 1845 and 1850, in which the king's willingness to change entirely his system was strongly declared, provided sufficient were given to him by the British Government to pay his chiefs and people at the annual customs, computed at less than 40,000 dollars a year. He said he (the king) had refused to cede to the Prince de Joinville, and would treat only with the British Government.

After some further discussion,

Lord Palmerston said that he received the deputation with great pleasure, because he felt fully the importance of the subject on which they had come to him, and because he was glad to find the subject taken up by so influential a body as that represented by the deputation. The first question related to the supply of cotton. It was evident that from America it was precarious, yet our manufacturers had relied entirely upon that one source. He had long thought that the coast of Africa would, if proper encouragement were given, be able to supply as much cotton as we could want. But in order that this should be, we must begin by extirpating the slave-trade. Many people imagined that lawful commerce would extinguish the slave-trade, but the reverse was the fact; slave-trade extinguishes lawful commerce, and to have lawful commerce we must put an end to slave-trade. The chiefs on the African coast derive direct profit by selling slaves, and only an indirect profit from lawful trade, and they have therefore a tendency in favour of slave-trade, but they do not sell their own people, but make war on their neighbours to take prisoners, whom they sell. Much had been accomplished towards the suppresion of slave-trade. The slave-trade to Brazil had ceased; 60,000 or 70,000 slaves used to be landed in Brazil, and each of those slaves represented at least two more, victims of the violence committed in Africa, and of the miseries of the inland journey and the sea passage. The Government needed all the support which Associations such as this could give it, in labouring

to accomplish completely the extinction of the remaining slave-trade; and if that were done, an immense supply of cotton, as well as of other valuable commodities, would be obtained from Africa. Lord John Russell entertained the same feelings as himself upon this subject, and he was sure that Lord John would favourably consider any practical suggestion which the deputation might make to him on the matters on which they had now dilated.

The deputation then withdrew.

In the afternoon of the same day the deputation waited upon Lord John Russell, the following gentlemen having joined it, namely: Dr. Norton Shaw, the Rev. D. Osborn, A. W. Hanson, Esq., Her Majesty's Consul at the Sherbro river; the Hon. Captain Maude, the Rev. W. M. Bunting, and the Rev. Dr. Cather.

Lord Alfred Churchill, in introducing the deputation, referred to the proceedings at the interview with Lord Palmerston, and presented a memorial signed by the Council and Committee of the *African-Aid Society*, by merchants, manufacturers, and others in the City of London; the *Chambers of Commerce* of Glasgow, Birmingham, Nottingham, Huddersfield, Bradford, Hull, Worcester, Bristol, Southampton, Newcastle, and Manchester, praying for the appointment of a High Commissioner to the King of Dahomey, and of a resident British Consul at Abbeokuta. In continuation, his Lordship said, that in drawing attention to the necessity which existed for a Consul at Abbeokuta, he felt that he ought to comment very strongly on the great necessity which also existed for obtaining a good supply of cotton under present circumstances; therefore, wherever an opportunity offered of obtaining that supply it should be at once embraced. The *African-Aid Society* intended to open up a country from which it could be obtained. He referred to Abbeokuta, the inhabitants of which and the chiefs were anxious to encourage commerce and civilization. The population was large and the country extensive. There was an Association at Abbeokuta which took the form of our English Chambers of Commerce, and a newspaper was published there in the native language, with an English supplement. The natives were noted for their experience in the production of cotton, and he believed that if they were encouraged a very great trade might be carried on, the benefit of which would not end there, for it would open the door to Christianity all over the country. His Lordship then read the treaty which had recently been signed between the chiefs and the Commissioners there, Campbell and Delaney, which went to shew that the former were anxious to improve the condition of the people. In order further to promote this object, it was felt that the settlers should have some protection from an accredited Agent to the British Government, and that protection could not be better afforded than by sending a Consul to Abbeokuta. The place was rich in cotton, palm-oil, ground-nuts, and other products, and if legitimate commerce were sustained, amongst other advantages the slave-trade would be checked, and cotton be produced at a much cheaper rate than at present. His Lordship urgently pressed the matter upon the noble Lord the Foreign Secretary, believing that not only the territory especially alluded to would benefit therefrom, but that the whole country would feel the advantage, and, in addition, a blow would be struck at the root of Slavery.

Mr. Clegg having given an account of his experience in reference to the matter before the noble Lord, and expressed his conviction that great good must result from the sending of a Consul to Abbeokuta, proceeded to deny the statement which had been made elsewhere that the Africans were an idle race of men. He thought that no man who would turn a cotton-gin for ten hours a day for fourpence should be called idle. This was done in Africa, and he had known of women carrying a load of cotton, weighing 120 lbs., with a child on their backs, go with that weight two journeys a day. As to the quality of the cotton, it was much better from Africa than New Orleans, and much cheaper.

Mr. Banner and Mr. Partridge addressed his Lordship in support of the Memorial, and, referring to the conduct of the King of Dahomey, repeated the prayer of the Memorial presented to Lord Palmerston in the morning (a copy of which had been handed to Lord John Russell), that Her Majesty's Government, should give a subsidy to that individual in order to induce him to give up the slave-trade.

Sir Culling Eardley Eardley also supported the prayer of the Memorial.

After some remarks from Mr. Consul Hanson and Mr. Albright, of Birmingham,

Lord John Russell said he had much pleasure in meeting the deputation on this subject. He entirely concurred in the general observations which had been made, and the object they had in view was, without doubt, most praiseworthy. As to the appointment of a Consul at Abbeokuta, if it would promote the object the deputation had in view, he (Lord John Russell) promised he would look into the subject, and if there was no objection in the rules and regulations to the appointment, he saw no reason why it should not be made. He would make the appointment if he could, especially if he thought it would in the slightest degree tend to extinguish the slave-trade.

The noble Lord's reply was received with applause, and the deputation, having acknowledged their courteous reception, withdrew.

On Tuesday, the 13th, Mr. A. Mills asked

in the House of Commons, whether any correspondence had passed between the Government of the United States and that of Her Majesty, in the case of the fugitive Anderson. Lord John Russell said in reply, that beyond the original demand, no correspondence had occurred.

On Monday, the 19th, Mr. Moffat moved for a return, which was agreed to, shewing the number of immigrants and liberated Africans which have been introduced into each of the British West-India Colonies and into the Mauritius, since 1847.

On Wednesday, the 20th ultimo, a public Meeting was held at Willis's Rooms, to hear a report from the Rev. Messrs. Underhill and Browne, of the results of their recent visit to the West Indies, as a deputation from the *Baptist Missionary Society*. The chair was taken by Mr. Charles Buxton, M.P., and subsequently by Mr. G. W. Alexander, Mr. Buxton having been obliged to leave the Meeting to attend a division at the House of Commons. The statements made by the Reverend gentlemen were of the most encouraging nature, and fully confirmed the often-repeated assertion, that emancipation has proved an unmixed boon to the population of the West Indies. The Rev. W. Arthur, the Rev. W. Brock, the Rev. E. Matthews, Sir S. M. Peto, Bart., M.P., and L. A. Chamerovzow moved and seconded the Resolutions which were submitted to the Meeting, and which were passed unanimously. We hope Messrs. Underhill and Browne will shortly publish an official report of their visit.

On Friday, the 22d, Mr. W. E. Forster, the new member for Bradford asked Lord John Russell a question respecting the liabilities of owners and captains of British vessels going into Charleston. He took advantage of the opportunity to ascertain whether the British Consul there had in any way recognised the revolutionary Government, pointing out that any new State Confederacy ought to be bound by the slave-trade treaty obligations of the actual Federation of which it forms a part. Lord John agreed to produce the correspondence which had passed upon the subject, and stated that the proceedings of the British Consul were highly creditable to him, in the delicate circumstances in which he was placed.

On the same evening Mr. Haliburton asked for the production of the correspondence between the Canadian Government and that of Her Majesty, relating to the rendition of Anderson, and animadverted upon the interference in the case of "a man with an unpronounceable name, a Polish refugee, unconnected with either Government."

Mr. C. Fortescue declined producing the correspondence, as unlikely to add to the information already known. He also defended the course of private parties here, and read an extract from the despatch to the Governor-General of Canada from the Duke of Newcastle, instructing him not to give up Anderson until the Home Government ordered him to do so.

The *Christian Reformer* for February last contains an excellent article, from the pen of Dr. Russell Lant Carpenter, entitled "Can England Surrender Fugitive Slaves?" It was suggested by the Anderson case. The author lays down and contends for the same principle we have urged, namely, that under no circumstances or pretext can England surrender a fugitive slave.

Mr. W. E. Forster, son of the late W. Forster, who died in America in 1853, while prosecuting an anti-slavery mission, has been returned, without opposition, to represent Bradford in the House of Commons. Mr. Forster is well known as a writer of great original powers of thought and ability, and as an anti-slavery advocate of uncompromising principles. We hail his return as a great parliamentary acquisition, and a decided gain to the anti-slavery cause.

The *African-Aid Society* have issued a circular, setting forth the objects of the Society, and appealing for funds. It is dated from No. 7 Adam Street, Adelphi.

In November last the *London Baptist Missionary Society* issued an address to the American Baptists, through the *Baptist Free Mission Board*, on the subject of American Slavery. On the 5th ultimo an important Meeting of the members of the *Baptist Board* was held at the Mission House, Moorgate Street, to hear the response of the American Baptists. At the same Meeting the Rev. C. Stovel read a letter from the Rev. Cyrus Pitt Grosvenor, President of *New-York Central College*, giving a very able and lucid exposition of the views of the anti-slavery party in America, and of the attitude of the great body of Ministers and professing Churches in relation to the iniquitous institution of Slavery.

The *Cotton-Supply Reporter* of the 15th ultimo, contains a conclusive refutation of the articles which have appeared in the *Economist*, setting forth that the present state of affairs in the United States is not so likely, as is generally alleged, to diminish the supply of cotton; and that instead of a six months' supply in hand, the English manufacturers have only one of three months.

In the House of Commons, on the 26th instant, Mr. P. Cave moved the following resolutions on the slave-trade:

"1. That the means hitherto employed by this country for the suppression of the African slave-trade have failed to accomplish that object. 2. That this failure has mainly arisen from our having endeavoured, almost exclusively, to prevent the supply of slaves, instead of to check the demand for them. 3. That the true remedy is not to be found in countenancing immigration

into those countries where slavery exists, but in augmenting the working population of those in which slavery has been abolished. 4. That, therefore, while repressive measures should be continued, and even rendered more effective, every possible encouragement and assistance should be given to the introduction of free immigrants, and especially of settlers from China, into the British West-India colonies."

Mr. C. Buxton, Mr. Kinnaird, Mr. M'Mahon, Mr. Slaney, Mr. Ewing, Sir M. Farquhar, and Mr. Gregson took part in the discussion, and Lord John Russell, Lord Palmerston, and Mr. C. Fortescue replied on behalf of the Government. The result was that Mr. Cave withdrew his resolutions. We have no room for a summary of the proceedings.

AFRICA.—Our ordinary African files have not arrived in course. Our advices, come indirectly, only refer to LIBERIA. President Barson had opened the session, and dwells in his inaugural address upon the encouraging prospects of the Republic. The cultivation and manufacture of sugar was being greatly extended, and sugar-mills were arriving from England and America. The best qualities of coffee were being raised in increasing quantities, and the production of palm-oil was also extending. Large quantities of cotton—which grows spontaneously—were likewise being picked and cleaned for export. The Government contemplated the negociation of a treaty with Hayti; and the President having learnt of the arrival of four Spaniards at Gallinas, strongly suspected of coming on a slave-trading errand, had despatched a man-of-war to watch their movements, and had also sent to certain chiefs, commanding them to deliver up the whole party, if any slaves had been sold to them.

CANADA.—The case of Anderson continued to excite the public mind. The writ from the English Court of Queen's Bench had been served upon the Sheriff as soon as he brought Anderson into Toronto. On the 9th of February, the same day, he was brought up, on a *habeas corpus*, before the Court of Common Pleas, and the whole case gone into again. Mr. Freeman and Mr. Cameron appeared on behalf of the fugitive, and Mr. Eccles and Mr. R. A. Harrison for the Canadian Government, to oppose his discharge. This circumstance had occasioned the greatest surprise. The point which the Courts had to determine is a minor one, namely, whether Anderson is in lawful custody. On the more important one—that is, whether he ought or ought not to be surrendered to Missouri—they are not entitled to pronounce any opinion, the right of settling this point residing with the Government. It is alleged that the Attorney-General is promoting the object of the parties who are claiming Anderson. The Judges were expected to give their decision on the 16th of February.

Considerable excitement had been occasioned amongst the lawyers by the action of the English Court of Queen's Bench; and some of the papers denounced it as an arbitrary interference with the independence of the Canadian Courts; but there had been an illumination at Montreal, and public opinion generally was in favour of the measure upon this side.

P.S. Since the above was penned, a telegram announces the discharge of Anderson, in consequence of an informality in his commitment.

RUSSIA.—Several newspapers have reproduced in England a statement copied from the *New-York Tribune*, on the authority of its correspondent at St. Petersburg, to the effect that, early in the present month of March, the Emperor of Russia will issue a *ukase*, liberating all the serfs throughout his dominions. We give the report as an item of news, hoping it may turn out to have a substantial foundation.

UNITED STATES.—Affairs in the United States are so unsettled, and so many new propositions for their adjustment are brought forward only to be rejected, that it would serve no practical end to attempt to summarise events. Mr. Buchanan had again addressed Congress in a special message; but the approaching installation of Mr. Lincoln, which is to take place on the 4th of this month, will bring matters to a crisis. At any rate, there will be a line of policy laid down, which will at once be acted upon. Mr. Lincoln was on his way to Washington, and had addressed more than one deputation which met him. He avowed a disposition not to attempt coercion, but a determination, at the same time, to assert his constitutional powers for the collecting of the revenue, and for the carrying out of the public service.

In our columns will be found a leader headed "Disunion," which gives the names of the six States that have seceded, and constituted themselves a new and an independent Republic, under the title of "The Confederated States of America." They have elected a President and a Vice-President, and adopted the outline of a provisional Constitution.

The hesitating attitude of the Border States seemed to have checked the revolutionary ardour of the seceders. Much excitement prevailed, but actual hostilities had not been attempted. The general opinion tended to induce a belief that the question of secession would be settled peacefully, unless some unfortunate accident precipitated a collision.

The Columbia *South Carolinian* publishes an ordinance passed by the City Council to raise supplies for the year 1861. Besides a tax of eighty-five cents on every hundred dollars' worth of real estate, and innumerable taxes on horses, waggons, places of amusement, &c., it is ordained that *one dollar per head* shall be paid on all *slaves* under sixty years of age, not liable to

street duty, which said tax upon slaves shall be paid by the owner or person having charge and control thereof; *one dollar* each on every free negro, mulatto, or mestizo, under the age of ten years; two dollars each on every free negro, mulatto, or mestizo, over the age of ten, and under sixteen years, ten dollars on every male free negro, mulatto, or mestizo, over the age of sixteen, and under the age of sixty years; seven dollars on every female free negro, mulatto, or mestizo, over the age of sixteen, and under the age of fifty-five years, and twenty-five dollars on every male free negro, mulatto, or mestizo, over the age of twenty-one, and under the age of sixty years, exercising any mechanic art or trade, within the limits of the said city.

The heaviest part of the expense of secession is thus levied on those free negroes who have, by industry and mechanical skill, become able to maintain themselves. Besides a very heavy tax on each head of such family, every member of it, down to the child in arms, is subjected to an additional exaction. The result must be, the speedy reduction of this class of persons to a condition of abject poverty, and they will probably be sold into Slavery. The *sale of free negroes* will thus come to be the grand resource of the seceding States to defray the expenses of their rebellion.

The *New-York Times*, of January 10, analyzes the census of 1850, shewing that only *two* men in the Slave States own as many as 1000 slaves; only *nine* own as many as 500; only *fifty-six* own as many as 300. Of the fourth class, only *one hundred and eighty-seven* own 200; and of the fifth class, 1479 own 100 and less than 100.

All these, being the large slaveholders, are only 1733 in number, and if collected together, apart from their slaves, would only make a respectable village. If the sixth class be added, all slaveholders are included who may be said to be wealthy. It embraces those who own fifty slaves, but less than one hundred, and is 6196 in number. The six classes, including all who own as many as fifty slaves in the whole South, will therefore amount to 7929 persons.

A plan of Emancipation, upon the principle of compensation to the slaveholders, was being warmly advocated in political circles at Washington, as a means of settling the Slavery question in the Slaveholding States which border upon the Free States. It was meeting with favour at the hands of many who are opposed to any pro-slavery alteration of the Constitution, or to the extension of Slavery under any pretext whatever. The New-York Legislature had passed a resolution requesting the New-York Senators and Members of Congress to urge the adoption of the plan at Washington. It is computed that the sum of 240,000,000 dollars would be amply sufficient as compensation for the slaves in the States of Delaware, Maryland, Missouri, Arkansas, Texas, and Louisiana, 600,000 in number, at an average sum of 400 dollars each.

The accounts from Kansas are most distressing. Famine is in the land, and even the cattle and hogs are starving. The inhabitants are themselves destitute of food, and must perish unless speedy relief be afforded. The State has been admitted into the Union as a Free State.

PARLIAMENTARY RECORD.

HOUSE OF COMMONS.

(*Friday, 8th February.*)

THE CANADA EXTRADITION CASE.

Mr. H. B. SHERIDAN, in rising to ask the question, of which he had given notice, in reference to the fugitive slave Anderson, said that it was not his intention to take up much of the time of the House. The first question was, whether, in the Canadian extradition case, the Government had any doubt that the writ of *habeas corpus* issued by the Law Courts here, requiring that the body of Anderson should be brought before them, would reach Canada in time to prevent the judgment of the Canadian Courts being acted upon. He had struck out the word "surrender of the prisoner," because it appeared that the Canadian courts did nothing but decide on the abstract question of law. The prisoner was, therefore, remitted to the sheriff, and it was left to the Governor to decide whether he should be given up or not. He knew there were many persons who had doubts as to whether the writ would arrive out in time; and there was further no little surprise expressed, that judges presiding over a British Court should be found to give so remarkable a decision as that given in Canada. He wished, therefore, to know whether the noble Lord at the head of the Government had taken any steps in reference to this subject. The second question was whether there was any doubt that, on the reception of the writ in Canada, it would be attended to. He might be permitted to say that during the last few minutes he had been told by an eminent Canadian that the writ would not be attended to; and he knew that there were many English lawyers who had grave doubts on the subject. It was, therefore, a question, whether some conflict might not arise in reference to the jurisdiction of the Courts. The third question was, whether steps had been taken to secure a safe passage for Anderson through American territory, if that route should be selected to reach this country. This was of some importance. They had been told that at this part of the year the usual route from Canada to England was blocked up by ice; and as the writ was returnable immediately, it might be that the messenger sent by the Court of Queen's Bench might select the American route for expedition's sake. He would not take up more of the time of the House, but content himself with asking the question, the remainder of which, beyond what he had mentioned, was as follows: If Her Majesty's Government are aware whether or not Anderson is now in prison in any of Her Majesty's gaols in any part of Her Majesty's dominions as a

felon or otherwise, and subject to the ordinary treatment of persons who have broken the laws; and whether the Government, finding that it is the opinion of certain British judges that there exists a treaty with the United States of America, by the terms of which Great Britain has declared that there are some men who have no natural or legal rights, have taken any and what steps to revise or to put an end to and dissolve such treaty, in order that, for the future, no misunderstanding shall exist as to the meaning of such treaty, or as to the intention of the British people with reference to the question whether one man has or has not the power to enslave another?

Mr. COLLIER would take that opportunity of making a statement, in which he was confident he should be supported by his honourable and learned friends in the House, that it was the almost unanimous opinion of English lawyers, that the decision of the Canadian Courts was wrong, and that Anderson ought not to be given up. It was a question to decide which did not require a legal education. It was one which every member of that House was as competent to deal with as any lawyer. He would briefly state what it was. The question arose upon the construction of the Ashburton treaty. With regard to the extradition treaties generally, it was stated by Sir James Macintosh that the object was the extradition of great offenders—offenders against the law of nations—which was at the basis of the code of all civilized nations, and not of offenders against merely the peculiar, conventional, and exceptional laws of particular Slave States. But in order to guard against any question being raised that they were bound to surrender offenders against the peculiar laws of the States, they had made a provision in the treaty. The provision was: "Provided that extradition can only be made upon such evidence of criminality, as, according to the laws of the places where the fugitive should be found, would justify his apprehension and commitment for trial if the crime or offence had been there committed." That was, in the country where the fugitive was found. A question was asked in that House, in 1843, by Lord Macaulay, of the officers of the Crown, as to the construction of this treaty, whether or not this treaty would apply to an offender against the peculiar laws of the Slave States? Sir Frederick Pollock, who was then Attorney-General, stated that it would apply only to cases in which an offence had been committed against the laws of England or those of Canada. He (Mr. Collier) believed that opinion of Sir F. Pollock to have been perfectly correct. If the words in the treaty which he had just quoted were read in their plain and simple interpretation, no man of common sense could help coming to the same conclusion, and it would require a great deal of legal ingenuity indeed to pervert them. He understood that, by the judgment of the Court of Canada, this was not the interpretation which had been put upon it, a judgment with which he altogether differed. The magistrate before whom Anderson was brought had to consider whether he had committed a crime according to the laws of Missouri, and then to determine whether the evidence of that crime was sufficient, according to the laws of England. There could be no proceeding more inconvenient than to require a magistrate to deal with the laws of two different countries—to consider the law of one country with respect to crime, and then to determine upon the evidence respecting that crime by the law of another country. If they were to judge of this crime by the law of England the case was quite clear. An attempt was made to apprehend Anderson, who was pursued for the purpose of capture. He killed his pursuer in defence of his liberty. He (Mr. Collier) said that was not murder according to the law of any civilized country. Then how did it become murder? Why, upon the proof of the additional fact that he was a slave. But the law of this country did not recognise Slavery, and therefore that fact was wholly immaterial. He therefore ventured to say, with great respect, that it seemed to him the Court of Canada had frittered away the plain meaning of the words to be found in the treaty, and had given them a meaning never intended by either of the contracting parties. Let them see for a moment to what consequences this interpretation would lead. If the criminal law of Missouri were to prevail, this would follow. Suppose the Missouri authorities were to enact, that any slave who struck work, or who read the Bible, should be guilty of murder, this country would be bound to surrender him upon proof that he had struck work or read the Bible. Such would be the legal consequences of this decision. He had only to express an anxious hope that Her Majesty's Government would be able to give a satisfactory answer to the question which had been put in reference to this subject. He felt certain that the Government could not possibly give any other directions to the Governor-General of Canada than not to surrender Anderson.

Mr. WARNER, before the noble lord answered the question, wished to put one also on the same subject. It would be in the recollection of the House, that some years ago a claim was made by the Government of this country upon the Government of the United States for the extradition of a person charged with murder in Ireland. This person had waylaid his landlord and shot him dead. The case came fully before the Courts of the United States, and it was ultimately held that the treaty did not apply to political offences; and secondly, that the shooting a landlord in Ireland was not a crime, but a political offence. He was ready to admit that the Ashburton treaty stood unrivalled as an instance of diplomatic incapacity. But whether the decision of the Courts of Canada was right or wrong, the question now rested not with the Court, but with the Executive Government of Canada, and he wished to ask whether that Government was in official cognizance of precedents of this nature, and whether any instructions had been sent out to Canada, for he could not imagine the Governor-General acting upon an interpretation of a treaty which the United States in their own case refused to acknowledge.

MINISTERIAL REPLIES.

Lord PALMERSTON: With reference to the question which has just been under discussion, I will state exactly how the matter stands. My noble friend the Duke of Newcastle wrote on the 9th of January to the Governor-General of Canada, that he was not to surrender Anderson to

the American Government until he had received positive instructions from this Government to do so. There is, therefore, no chance of Anderson being surrendered until the question shall have been fully considered. There is a general impression that the decision of the Court of Queen's Bench in Canada would have the effect of requiring that Anderson should be given up; but it had no bearing upon that point. The effect of the decision of the Court of Queen's Bench, whether right or wrong, was that Anderson was not to be taken away from the custody in which he was. It rests, not with the Court of Queen's Bench, but by treaty with the Governor-General of Canada, to make out his warrant for the surrender of a criminal. It is not for me, of course, to answer questions as to the conflicting jurisdictions of the Court of Queen's Bench, or what may be the course pursued by the Court of Queen's Bench in Canada, in consequence of receiving the writ from the Court of Queen's Bench here; but, of course, it is plain enough, that if Anderson were to be sent to England he would not be sent through American territory. My honourable and learned friend (Mr. Collier) has very plainly stated the effect of that part of the Ashburton treaty which relates to the question. I cannot agree with my honourable friend (Mr. Warner) that that treaty is unintelligible. I consider it as clear as day. It requires that when a criminal is claimed he should be accused of one of the offences mentioned in the treaty, and that the circumstances alleged as the ground for his delivery should be such as would shew that he was liable to be prosecuted for that crime, according to the law of the land in which he was captured; that is, in this case, according to the law of England. Therefore, it is quite plain to my understanding that the Slave States must establish that Anderson committed an offence which, by the law of England, is murder, and must give proof which would be sufficient to satisfy an English Justice of the Peace that he ought to be committed to be tried upon that indictment. I will not go into the question which has been so ably explained by my honourable and learned friend (Mr. Collier), whether a person attempting to reduce a freeman to Slavery, and is killed by that man in self-defence, is manslaughter, justifiable homicide, or murder. I think the probability is, that no English Court of Justice would consider it murder, and if it is not murder, it is quite clear there is no case established under which the surrender of Anderson could be claimed under the extradition treaties. It will be satisfactory to the House to know, that in consequence of an instruction from the Secretary of State for the Colonies, the Governor-General of Canada is not to surrender Anderson until the question shall have been fully considered by the Government at home, and until instructions are sent to him from hence.

The motion for the adjournment of the House was then agreed to.

(*Tuesday*, 13*th February*.)

THE ANDERSON CASE.

Mr. A. Mills asked the Secretary for Foreign Affairs whether any correspondence had passed between Her Majesty's Government and that of the United States, in the case of the fugitive slave Anderson, as affected by the provisions of the Ashburton treaty.

Lord J. Russell said, there had been nothing more than the original demand by the United States, declaring that a man of colour, of the name of Anderson, had been guilty of murder, and demanding his extradition, and there had been no further answer or correspondence on the subject.

(*Monday*, 19*th February*.)

IMMIGRATION.

On the motion of Mr. Moffatt, a return was agreed to, showing the number of immigrants and liberated Africans admitted into each of the British West-India colonies, as well as the places whence they were introduced, for each year, since 1847; and similar return for Mauritius.

Friday, 22*d February*.

TRADE WITH SOUTH CAROLINA.

Mr W. E. Forster said that he should wish to say a few words upon a subject to which the attention of many members of that House must have been directed. A statement had recently appeared in the public press, that in consequence of the lamentable quarrel which had arisen between the State of South Carolina and the United States, the British Consul at Charleston had been informed that the Custom-house functionaries of that port were no longer acting for the Federal Union, but for the State of South Carolina. That intimation was given by persons professing to act on behalf of the Convention of South Carolina. The House would observe that this notification placed the owners and captains of British vessels in a position of considerable difficulty, inasmuch as the Federal law of the United States imposed stringent penalties upon the non-observance of their regulations. He was not surprised, therefore, that Her Majesty's Minister at Washington thought it necessary to ask the American Government whether, on the one hand, they would hold British shipowners liable for non-compliance, or, on the other hand, would indemnify them for any losses arising from compliance with the regulations of the Federal Government. He (Mr Forster) therefore wished to ask whether there was any objection to lay on the table a copy of the correspondence which had passed between Lord Lyons and Mr. Black, the Foreign Minister of the United States. There were two reasons why it appeared to him that this publication was especially desirable. He was not now going into the question whether diplomacy should be secret or not, but he would say that to attempt to carry out a secret diplomacy with the United States would be unwise, because it would be impracticable. If our Government did not publish the papers, the newspapers of the United States would ferret them out and publish them, and therefore the only effect of non-publication on this side would be, that we should have no official test of the correctness of statements on the other side, which might be distorted or exaggerated. He would be the last member in the House to desire that this country should interfere in the lamentable dissensions that had broken out in the United States; but we could not forget two facts; first, that this quarrel arose out of Slavery; and next, that we had a

treaty with the United States, and therefore with each State of the Union, for the prevention of the slave-trade. He believed that our withdrawal from, or relinquishment of, those obligations would be as injurious to our interests, rightly viewed, as it would be disgraceful to our honour, and destructive to the cause of humanity. He had the firm conviction that that was the opinion of the country, and it was because he had that firm conviction, and also because he had full confidence both in the noble lord the Secretary of State for Foreign Affairs, and the noble lord at the head of the Government, that he was very anxious they should take counsel with the country in any eventuality which might arise out of the lamentable differences which had arisen in America. He begged, therefore, most humbly and earnestly, that any correspondence which might have passed might be laid on the table.

Lord JOHN RUSSELL said: As to the correspondence asked for by the hon. member for Bradford, I shall be most willing to produce it, and I expect to be able to lay it upon the table on Monday next. I think it is highly honourable to the consul at the place. He was placed in considerable difficulty, not being able to acknowledge the new Government that sprang up; but at the same time he did not neglect the interests of British shipping.

THE ANDERSON SLAVE CASE.

Mr HALIBURTON wished to refer briefly to what had appeared respecting the slave Anderson. He had been an inhabitant of Missouri, and had escaped from Slavery. He took the life of a white man, also an inhabitant of that State, who was endeavouring to capture him while he was trying to escape from his master. After that event Anderson succeeded in effecting his escape, and got into Canada. The relatives of the man who was killed, having traced him out, demanded him under a law of the province; not under a treaty, as had been stated in this country, but under a law of the province containing many provisions of a treaty. A certain treaty that had been agreed upon between this country and the United States was adopted by the province and passed into a law, to give it the only validity which it could have. Under that law the question had been brought before the Supreme Judges. It had been inquired into and adjudicated on by that Court. He now wished that he might not be misunderstood, for in a case of this kind, which had created so much feeling in this country, he might be misrepresented. He therefore distinctly stated that it was not his intention to offer any opinion on the act of the man Anderson, as to whether it amounted to murder, or manslaughter, or justifiable homicide; as to whether he was rightly captured in Canada, or as to whether the judgment of the Court there was right or wrong. On all these questions he had no observation to make. His object was neither to vindicate the rights of the State of Missouri, nor to vindicate the rights of the prisoner Anderson, but to state that there had been two violations of the rights of the people of Canada during the trial of this case, and before its final termination. An application was made to the Court of Queen's Bench in this country for a writ of *habeas corpus* to bring Anderson out of the gaol in Canada and before the Court, in order to have his case inquired into. There had been some very singular circumstances attending this case in the Queen's Bench. Here, again, he wished to explain that it was very far from his intention to make any remark whatever disrespectful to the judges of that Court. Their learning, their very great ability, and the wisdom and impartiality with which they decided every thing that came before them, not only entitled them to, but commanded for them, the respect of every one. The country ought to be proud of such a Court, and he should be wanting in self-respect if he made any remark derogatory to its judges; but at the same time they were not infallible. Appeals from decisions of the Queen's Bench had at various periods of our history been brought before the House of Lords; and in some cases those decisions had been reversed. In the present case he could only suppose that the Court acted on the supposition that they were adjudicating on the terms of a general treaty, which was within their cognizance and jurisdiction. But, if such was the fact, one would have imagined that some reference would have been made to the law-officers of the Crown, and that the application to the Court would have been made under their authority. Instead of that the affair was a voluntary one. A man with an unpronounceable name, who he (Mr. Haliburton) believed was a Polish refugee, and in no way connected with the authorities of Canada or those of this country, made a voluntary affidavit. The writ of *habeas corpus* was granted, and addressed to the gaolers who had possession of the prisoner, and to the Governor of Canada, a civil officer with military powers. A writ of *habeas corpus* might with as much propriety be addressed to the Governor of Newgate and the Duke of Cambridge. He spoke the sentiments of some of the ablest lawyers in this country when he said that the decision of the Court of Queen's Bench had created great surprise here, and he knew that it had caused the greatest consternation in the colony. In these observations he made no reference to the case of Anderson. They would apply equally to any other case. The people of Canada complained that their rights had been violated. The Court of Queen's Bench, no doubt, founded its jurisdiction on the treaty; but the best authorities in Canada called in question the power of any authority in this country to do so—they called in question the treaty-making power. The colony had a government and a legislature of its own, and was competent to perform all the acts that were necessary to the government of its people. There was provision made for appeals from the decisions of its Courts of law. If a man was dissatisfied with the decision of any of the ordinary Courts, he had a right of appeal to a higher tribunal, and from that again he could appeal to the Privy Council. That was the only mode in which the judgments of the Canadian Courts could be reversed, and a very proper mode it was. However able and learned the Canadian judges might be, they were themselves ready to admit that they had neither the experience nor the erudition of the judges of England. To send a writ to Canada to take a man out of the country, and bring him over here to be adjudicated upon, was to invade the constitutional rights of the

people of Canada. The people of the colony, and especially of Montreal, rejoiced to think that they had got rid of the responsibility of this case, and were nearly illuminating their houses; but still they wished that the thing should be done legally, and not at the expense of their rights. The ordinary course of appeal had been passed over; a writ of *habeas corpus* had been sent over, and an officer sent with it to receive the man. It was rather a humiliating proceeding to see an officer of one of the superior Courts of this country sent on such an errand, considering the answer he was sure to receive. The answer would be, that in Canada they did not recognise the authority of such a court. He certainly wished that they would deliver the man up under protest, as such a case was not likely to occur again. No one pretended to say that there was any intentional violation of the rights of Canada in what had been done. He supposed the judges of the Court of Queen's Bench had some idea that there was such a place as Canada, just as he had that there were such places as Guernsey, Jersey, Alderney, and Sark. He took it for granted that there was such a place as Sark, as it was to be found in the map, but he had never seen it, and never saw a man who had. The judges of the Court of Queen's Bench seemed to have some such idea of Canada. With regard to the orders sent by the Duke of Newcastle to Canada, he should like to know, first of all, what authority he had to send orders at all. The Colonial Office seldom interfered in the colony at the right time, and when it did it usually did so in a wrong manner. He hoped the correspondence would be laid on the table, that the people of Canada, and of the other colonies too, might be able to see what these orders of the Duke of Newcastle were, and whether they were justified by the constitution of Canada. As the nominee of the Colonial Office, the Governor of Canada was often in communication with the Colonial Secretary; and there might be many occasions on which it was necessary for the latter to communicate advice to the Governor, and to recommend that he should take such-and-such a course. But orders were public documents, and as such ought to be made known. The country was not to be governed by orders that were not to be seen. The Government of a constitutional colony was to be carried on by the Governor, by and with the advice of his Council. If, therefore, any order went out which directed him to pursue a certain course without the advice of his council, it would be a contravention of the constitutional rights of the people. The Duke of Newcastle had been recently in Canada, and had seen there the noble reception given to his Royal Highness the Prince of Wales—hearty, honest outbursts of loyalty and affection; he might have seen what the character of those colonists was—that they were Englishmen in feeling and principle, and not a people likely to put up with what they considered a slight or an insult. He took it for granted, therefore, that the Duke of Newcastle would be cautious how he addressed them, and that the orders contained nothing that was unconstitutional. They were not people to put up with nonsense, although they would do any thing they were asked in civil language. The difficulty arose merely from their having been badly managed. He would, however, say no more on this subject, as it would probably, at no distant day, be brought before Parliament. He would confine himself at present to asking the Under Secretary of State for the Colonies for information as to the extradition of the American slave Anderson, now in custody in Canada; and if he would lay upon the table copies of all the correspondence that had passed in relation thereto between the Secretary of State for the Colonies and the Governor of Canada, and all orders issued thereupon.

Mr. C. FORTESCUE did not intend to follow the hon. and learned gentleman into the observations he had made as to the conduct of his noble friend in his dealings with the Orangemen of Canada, as he was glad to hear it was intended to give his noble friend an opportunity of justifying himself in another place, and in his hands he should leave it. The hon. and learned gentleman had, however, spoken in a tone of complaint, which he felt sure would not be echoed in Canada, of the efforts made by the Government and by private parties in this country for securing to an unfortunative fugitive a full and fair consideration of his rights. He represented that there had been two invasions of the rights of the Canadas—one in the action of the Court of Queen's Bench in London, the judges of which thought it their duty, upon an application made, not by the Government, but by private parties, to issue a writ of *habeas corpus*. It was not his duty to discuss either whether the Queen's Bench were legally entitled to issue that writ, or whether, if they had, such ought to be the state of the law. The only view taken by the Colonial Office amounted to this, that along with that writ a despatch was sent by his noble friend to the acting Governor-General of Canada, that, in the event of his being called upon to take any action in regard to that writ, he should be guided by the opinion of his Candian law advisers. The other invasion of the rights of the Canadas was written by his noble friend with great promptitude and readiness when he heard from Sir Edmund Head, who was then in this country, that the Court of Queen's Bench at Toronto had come to that judgment which was well known to the House and the country. Considerable misapprehension existed as to the effect of that judgment, which refused a writ of *habeas corpus*, and remanded Anderson to prison, but did no more. The Court of Queen's Bench had the power of setting a man free on a writ of *habeas corpus*, or of refusing to do so; but to deliver Anderson up to the American Government was not within the competency of any court of law. It was admitted by Chief Justice Robinson that the power of the Government to surrender a fugitive could not be affected by any thing said or done in the Court of Toronto. It was impossible to agree with the hon. and learned gentleman in his assertion that the Secretary of State for the Colonies had no right to address the Queen's representative in Canada on this subject. This was a case arising from a treaty concluded, not between the colony of Canada and a Foreign Power, but between the Imperial Government and the United States of America. On the 9th of January the Duke of Newcastle, writing to the Governor-General of Canada, said:

"If the result should be adverse to the prisoner

you will bear in mind, that under the treaty he cannot be delivered over to the United States by the mere action of the law, but only by a warrant under the hand and seal of the Governor-General of Canada. The case is one of the gravest possible character, and Her Majesty's Government are not satisfied that the decision of the Court is in accordance with the views of the treaty hitherto held by the authorities in this country. You will therefore abstain from completing the extradition in any case until the Government have an opportunity of considering that question."

The Governor-General had acknowledged the receipt of that despatch, and the Government now had the matter under its consideration. As to the production of the correspondence, it would not add to the substantial knowledge of the case now possessed by the House, nor would it be desirable that transactions of this delicate nature, which might give rise to a diplomatic correspondence, should be laid before Parliament in their present stage. The delivering up of the prisoner was not in the hands of any Court of Justice, but in the hands of Her Majesty's Government, and there the House might very safely leave it.

ANTI-SLAVERY ITEM.

PAINTING A WHITE GIRL TO MAKE HER A SLAVE.—The Natchez (Miss.) *Free Trader*, of the 12th inst., says a passenger on one of our boats, observed a pensive-looking little girl, aged about nine or ten years, whose black hair and yellowish brown skin would indicate that she was a mulattress. He was informed that she was a slave belonging to a man on board, who said he was taking her to New Orleans to sell her, he having bought her for 160 dollars in North-western Missouri. The passenger then had a conversation with the pretended owner of the child, and his answers did not agree with the captain's statement. Thereupon the little girl was taken aside and examined, with the following result:

"She said she was an orphan, and had been taken from an asylum in New York by this man; that her hair was light and her complexion brunette; that this man told her he was going to the South with her, where, as his adopted child, she would have a good home; that black hair was preferred in the South, and prettier than hers, and that he had taken her to a barber, and had her hair dyed black. He also told her that if she would allow him to put some yellow dye on her skin, that her complexion would become much whiter in a few days, and that he had put the stain on. On hearing these statements, the girl was taken charge of by the captain, and potash, soap and water being applied, the dyes were taken off, and the light hair and light complexion brought to light. The pretended master was seized by the excited passengers, who were about to deal with him summarily, but it was finally arranged to lock him up in a state-room until the boat should land. In the meantime the boat had passed St. Joseph, and, when a few miles below that town, rounded to take in wood. At this point—how or in what manner is not known—the border ruffian escaped from the boat, leaving his baggage behind. The girl was taken by the captain of the boat to New Orleans, and placed in one of the orphan asylums in that city."

The Anti-Slavery Reporter.

FRIDAY, MARCH 1, 1861.

DISUNION.

THE American Union is dissolved, in so far as the secession of South Carolina, Georgia, Florida, Alabama, Mississippi, and Louisiana, and the probable—nay almost certain—withdrawal of Texas, can constitute this an accomplished fact. Those States have even gone a step further. On the 9th ultimo, a Convention of Delegates from them, assembled at Montgomery, Alabama, and there, in solemn conclave, inaugurated a new Southern Confederacy, and adopted the outline of a provisional Constitution. They also elected Senator Jefferson Davis, of Mississippi, their first President, and Mr. Alexander H. Stephens, of Georgia, their Vice-President. In the main, the new Republic is modeled upon the framework of the old one, but, in contradistinction to it, assumes the title of "The Confederated States of America," instead of "United." The Constitution is to have force for one year only; probably with a view to allow the Border States to come in, and share the responsibilities of the new Government. It contains, amongst other clauses, one prohibiting the importation of African negroes from any foreign country, and Congress is required to pass laws to prevent the same. By the second clause, Congress acquires the power to prohibit the introduction of slaves from any State not a member of the revolutionary Confederacy. This is a blow aimed at the Border or slave-breeding States, for the purpose of inducing them to unite with the seceded States. Clause the third renders it imperative upon each State of the new Confederation to surrender fugitive slaves, and, in case of forcible abduction or rescue, full compensation, with costs, is to be made by the State in which such rescue shall have occurred. This clause is far more stringent than the one relating to the same subject in the United-States Constitution. These are the three principal clauses interesting to the anti-slavery public; and it will be a relief to many to learn, that the re-opening of the African slave-trade—asserted to have been originally a prominent feature of the revolutionary programme—has been rejected from the policy of the Confederated States.

In their new capacity, these have surrendered their individual power into the hands of the Provisional Government, which will now have to consider the grave question of peace or war with the United States. Charleston's revolutionary occupation is gone. She cannot, of her own accord and impulse, attack Major Anderson in Fort Sumter. Her influence for rebellious purposes is shorn of

its strength some five-sixths. There is, thus, a prospect that hostilities are not so imminent as they appeared to be a week or two ago. On the other hand, the new President has intimated his intention of keeping possession of the strong places actually belonging to the United-States Government, and of promoting their safety and defence by all the means at his command. He denies the right of any State to secede, at its own capricious pleasure, and intimates his intention of collecting duties and withholding the mails from places where they have been habitually violated. At the same time, his policy savours of Fabian tactics. He will await events, and act accordingly.

To the anti-slavery public this secession movement is deeply interesting. We think it scarcely doubtful that it will hasten the downfall of Slavery; and that the wisest course will be to allow the seceded States to complete their own ruin, in their own way. Totally bankrupt in morality; socially demoralized; financially on the verge of insolvency; politically weakened by the very steps they have taken to constitute themselves independent; without the means of sustaining their slave-population; with a community of "poor whites," who to dig are ashamed, and who therefore steal or lounge away their useless lives in squalor and despised wretchedness; with the elements of servile insurrection burning in their midst; without those incentives to enterprise which have enriched the Northern States; with a dominant and domineering class above, a debased, an oppressed, a demoralized class below, with no middle class to maintain the equilibrium between the governor and the governed; what prospect of stability do these newly-confederated Slave States present? Already has business received such a check as will involve their citizens in a loss of many millions. Then, from what sources are the taxes to be raised to meet the expenditure of the revolutionary government? If property is to be rated, the burden will fall upon the slave-owners, who will thus be made to pay most dearly for their secession whistle. From the poor whites, only a very small proportion of the public revenue can possibly be obtained, simply because they have no property, and they are a non-producing section of the community. If indirect taxation be resorted to, the amount must fall upon commodities consumed more by the slave-population than by the whites, and the tax will therefore press hardest upon the slaveholder. The financial difficulty will thus have to be dealt with at the very outset of their career, and it will prove a most serious one to solve. Disunion, therefore, means the ruin of the Slave States, and foreshadows the abolition of Slavery by the force of natural causes. The free North, with its elasticity of credit, its exhaustless supply of labour of every kind, its fertile corn-fields, its keen spirit of commercial enterprise, will enter into competition with the South, and will speedily absorb its commerce and its capital. To some extent this process is actually going on; for the Northern railways are conveying away the cotton of the South to the Northern ports, from the points where those ways touch the slave-border, at cheaper rates than it can be conveyed by Southern railways and river-boats to the ordinary cotton-shipping ports. In other directions, and in other departments of public industry, a similar process will lead to similar results; and then the crash will come, and Slavery must go, unless before that certain day the slaves attempt to free themselves, and a servile war complete the ruin now commenced.

THE CASE OF ANDERSON.

THE public excitement caused by this case has been kept up since our last by sundry references to it in the House of Commons, as set forth in our "Parliamentary Record," by articles in the newspapers dealing with the various questions of law, right, and interpretation which have arisen out of it, and by the intelligence which has reached this country of the manner in which the writ of *habeas corpus* granted by the Court of Queen's Bench here has been received. The *Times* has endeavoured to make it appear that the action of the *British and Foreign Anti-Slavery Society* has complicated the case. The insinuation is mischievous, but we confidently hope that the public opinion of the country will defeat the inteuded object. The legal question, as to whether our Court of Queen's Bench has the right of interference, is one that may safely be left to the lawyers to determine. The granting of the writ is, at any rate, *prima faciæ* evidence in favour of its concurrent jurisdiction. What we, on this side, have to consider, is its effect. Now, there can be no doubt, that a proper return to the writ would bring Anderson to this country, and, once here, he would be quite safe; and as his safety is one of the objects sought, the course which has been taken would be fully justified by this issue. It is quite true that the arrival of the writ has occasioned some commotion in Canada. Naturally the Courts are jealous of any interference with their independence of action, but Canada is only a colony, and, though governed by laws of her own making, she is not entirely relieved of her allegiance; and whilst this endures, circumstances will arise in which she will be reminded of her responsibilities and duties as a subject. Mr. Haliburton informed the House of Commons, on the 22d ultimo, that Montreal had been illuminated when the news of the writ

having been granted reached that city, for the people felt themselves relieved of a heavy responsibility. This fact was in remarkable contradiction with his statement, that the action of the Court of Queen's Bench here had excited general indignation. Excitement we know there was, and also that the lawyers were divided in opinion respecting the validity of the English writ. On the other hand, the friends of Anderson, and of the anti-slavery cause generally, had been greatly encouraged by the course taken here: it had marvellously stimulated public opinion in favour of the rights of the fugitives in Canada. We are not in a position to state what the result of the issuing of the writ will be, but on the day it arrived, Anderson's counsel had applied to the Court of Common Pleas for another *habeas corpus*, in order that the case might be re-argued before that Court. The question in doubt when the mail left was, which of the two writs the custodians of Anderson would obey. We may be in a position, ere we go to press, of giving definite information upon this head. At present we can only say that there existed a disposition to comply with the requisition from this side. If the Canadian Court of Common Pleas should reverse the judgment of the Canadian Court of Queen's Bench, the case will enter upon a new phase, which will have to be considered; but in the event of no return being made to the writ, we, on this side, have a remedy in the form of an attachment, which, if this extreme course should be necessary, would most assuredly be adopted. But even in such case, no hostility to the Canadian Courts or to the Canadians would be intended. It would be simply a means to an end, and that end, the satisfactory settlement of a very important question.

Mr. Haliburton was altogether in error in alleging that an officer of the Court of Queen's Bench had been sent from this side to serve the writ. The rumour was certainly current, but it was contradicted upon the very best authority. The writ was sent to one of the *Anti-Slavery Society's* correspondents at Toronto, and so far from any opposition being offered to its due service, there was every probability of facilities being afforded for that purpose. Mr. Haliburton's sympathies are not on the side of the negro, and we are, therefore, not surprised to see him assume the unenviable office of endeavouring to clog the efforts of those who are striving to obtain justice for one of a despised, oppressed race, by calling in question the prudence of their course, under cover of a vindication of the independence of the Canadian Courts of Law. Mr. Chichester Fortescue's reply was dignified and pertinent, and the friends of negro freedom are indebted to him for his prompt and energetic defence of the measures adopted to secure "to an unfortunate fugitive, a full and fair consideration of his rights." The extract read by him, from the despatch addressed by the Duke of Newcastle to the Governor-General of Canada, on the 9th of January, places the whole question in a nut-shell. It shews that the action of the Law Courts could only remand Anderson back to custody, and that the ultimate decision in his case rests with the Government of this country, and upon the interpretation of the Washington Treaty. But, in this case, the more summary the mode by which this ultimate reference could be made, was obviously the best, and we presume that the issuing of the writ of *habeas corpus* by the Court of Queen's Bench in England was precisely the most summary course which could have been adopted.

Whatever may be the result of the question which has been raised, as to the concurrent jurisdiction and power of our Court of Queen's Bench with that of Canada, Lord Palmerston's emphatic assurance, so fully borne out by the statement of Mr. C. Fortescue, to the effect, that under no circumstance is Anderson to be given up without direct instructions to that effect from the Home Government, will have been received, throughout the country, with general satisfaction. We believe a degree of credit may be claimed by the Committee of the *British and Foreign Anti-Slavery Society* for having stimulated the action of the Government, by the memorial they sent in upon the 5th of January, four days before the Duke of Newcastle wrote to the Governor-General of Canada, then in this country. The case stands, at present, in a satisfactory position, but it will be necessary to watch it closely, and to be prepared against the various contingencies which may arise out of it, affecting the rights of the fugitives who have sought protection in Canada from their oppressors in the Southern States of the American Union.

In connection with this case, the *Toronto Leader* (Government paper), of the 22d of January, has the following:

"On looking into Colonel Benton's 'Thirty Years in the Senate,' we find that he strenuously opposed the ratification of the Ashburton Treaty, for this reason, among others, that it did not cover the case of fugitive slaves charged with crime; but, on the other hand, by requiring the intervention of the judiciary, had rendered it impossible to secure the surrender of fugitive slaves guilty of crimes against their masters. His reasoning is as follows

"'In the eye of the British law, they have no master, and can commit no offence against such a person in asserting their liberty against him, even unto death. A slave may kill his master, if necessary to his escape. This is legal under British law; and in the present state of abolition feeling throughout the British dominions, such killing would not only be considered fair,

its strength some five-sixths. There is, thus, a prospect that hostilities are not so imminent as they appeared to be a week or two ago. On the other hand, the new President has intimated his intention of keeping possession of the strong places actually belonging to the United-States Government, and of promoting their safety and defence by all the means at his command. He denies the right of any State to secede, at its own capricious pleasure, and intimates his intention of collecting duties and withholding the mails from places where they have been habitually violated. At the same time, his policy savours of Fabian tactics. He will await events, and act accordingly.

To the anti-slavery public this secession movement is deeply interesting. We think it scarcely doubtful that it will hasten the downfall of Slavery; and that the wisest course will be to allow the seceded States to complete their own ruin, in their own way. Totally bankrupt in morality; socially demoralized; financially on the verge of insolvency; politically weakened by the very steps they have taken to constitute themselves independent; without the means of sustaining their slave-population; with a community of "poor whites," who to dig are ashamed, and who therefore steal or lounge away their useless lives in squalor and despised wretchedness; with the elements of servile insurrection burning in their midst; without those incentives to enterprise which have enriched the Northern States; with a dominant and domineering class above, a debased, an oppressed, a demoralized class below, with no middle class to maintain the equilibrium between the governor and the governed; what prospect of stability do these newly-confederated Slave States present? Already has business received such a check as will involve their citizens in a loss of many millions. Then, from what sources are the taxes to be raised to meet the expenditure of the revolutionary government? If property is to be rated, the burden will fall upon the slave-owners, who will thus be made to pay most dearly for their secession whistle. From the poor whites, only a very small proportion of the public revenue can possibly be obtained, simply because they have no property, and they are a non-producing section of the community. If indirect taxation be resorted to, the amount must fall upon commodities consumed more by the slave-population than by the whites, and the tax will therefore press hardest upon the slaveholder. The financial difficulty will thus have to be dealt with at the very outset of their career, and it will prove a most serious one to solve. Disunion, therefore, means the ruin of the Slave States, and foreshadows the abolition of Slavery by the force of natural causes. The free North, with its elasticity of credit, its exhaustless supply of labour of every kind, its fertile corn-fields, its keen spirit of commercial enterprise, will enter into competition with the South, and will speedily absorb its commerce and its capital. To some extent this process is actually going on; for the Northern railways are conveying away the cotton of the South to the Northern ports, from the points where those ways touch the slave-border, at cheaper rates than it can be conveyed by Southern railways and river-boats to the ordinary cotton-shipping ports. In other directions, and in other departments of public industry, a similar process will lead to similar results; and then the crash will come, and Slavery must go, unless before that certain day the slaves attempt to free themselves, and a servile war complete the ruin now commenced.

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but in the highest degree meritorious and laudable. What chance for the recovery of such a slave under this treaty. The new treaty differs from Jay's. Under that treaty the delivery was a ministerial act, referring itself to the authority of the Governor; under this treaty it becomes a judicial act, referring itself to the discretion of the Judge, who must twice decide against the slave—first, in issuing the warrant; and next, in trying it—before the Governor can order the surrender. Twice judicial discretion interposes a barrier which cannot be forced, and behind which the slave, who has robbed or killed his master, may repose in safety. What evidence of criminality will satisfy the Judge, when the act itself is no crime in his eyes, or under his laws, and when all his sympathies are on the side of the slave?' (Vol. II. p. 447.)

"The treaty itself, Art. 10, stipulates that this surrender 'shall only be done on such evidence of criminality as, according to *the laws of the place where the fugitive*, or person so charged, *shall be found*, would justify his apprehension and commitment for trial, if the crime or offence had there been committed.' This would seem to meet Anderson's case exactly. And we know that the Anti-Slavery Committee in London looked into this matter very thoroughly at the time the Ashburton Treaty was ratified, and made an earnest representation to the British Government on the subject, and received a solemn assurance (we believe it was in writing) that the treaty could not be used for the recovery of fugitives from Slavery."

THE SLAVE-TRADE PAPERS.

THE Slave-trade Papers, Classes A. and B., for the year 1860, have only recently been delivered. They profess to bring down information as to the state of the slave-trade to the 31st of March 1860; but the most important despatches are those from the Havana, including the annual report of Her Majesty's Commissioners, dated 31st of December 1859. Thus, in March 1861, we are without official information concerning the extent of the slave-trade in Cuba during the year 1860, notwithstanding that the annual report of the Slave-trade Commissioners there must have been at least one month in the hands of the Government. From independent sources we are enabled to state that the traffic in negroes during the year which has just expired, has exhibited no diminution upon its extent in 1859. What it was in that year may be judged of from the subjoined extracts from the annual report of Her Majesty's Commissioners, dated 31st December. They say:

"Another year has passed by, and instead of the slave-trade having been checked or put an end to, it is our unpleasant duty to state to your Lordship that it has been carried on and is being prosecuted to an extent hardly exceeded in the most flourishing period of that inhuman and detestable traffic, previous to the celebration of the treaty and enactment of the laws for its prohibition and suppression.

* * *

"We have had information of the introduction of no less than thirty-nine cargoes, with 22,855 negroes; add to which one-third, as usual, and we have the enormous number of 30,473 slaves landed here in this year, of whom 447 have been captured by a Spanish cruiser."

It will thus be seen that Lord John Russell spoke with authority when he declared, in the course of last session, that upwards of 30,000 negroes had been landed in Cuba during the year 1859.

Commodore Wise writes as follows to the Secretary of the Admiralty, from Cabinda (West Coast of Africa), May 16th, 1869:

"The slave-trade in 1857 and 1858 was most successful; the profits of slave-dealers enormous. This year the number of vessels escaping will exceed all known annals of slave-trade, and encourage the Americans to enter with all the energies peculiar to them, for the remainder of the present, and the ensuing year of 1860."

Here is another extract from a further despatch of the same officer, dated July 20th, 1859, at sea, latitude 5° 33′ S., longitude 10° 25′ E., and addressed to Rear-Admiral Sir F. Grey:

"In 1858 and 1859, 22,000 slaves are believed to have been imported into Cuba, the number shipped being much about 11,000 each year; but in the short space of four months, ending 1859,* no less than 37 vessels, capable of containing 24,000 slaves, have sailed from western ports for this station. If slave-trading expeditions continue to be despatched for Africa in the same proportion during the eight months commencing 1st of May 1859, 105 slavers, capable of conveying 71,000 slaves, will arrive on the African coast in the course of the twelve months ending in March 1860. Taking the average captures, one-fourth of that number will be seized by Her Majesty's cruisers, still leaving 79 vessels, capable of containing about 53,000 slaves, to run their chance of eluding Spanish men-of-war off Cuba. Now this calculation I believe to be much under the actual facts, being exclusive of slaves shipped from the East Coast of Africa."

From the East Coast we have the reports of Commander Oldfield, to the 19th January 1860, (received March 3d,) which shew that slave-trade had revived in the Mozambique Channel. They set forth, that unless active measures for its suppression be adopted, "the export of slaves in vessels driven off the West Coast will rapidly increase." He states that "the export of negroes to Bourbon, to the 29th of June 1859, under the name of free-labourers, has been carried on to an unprecedented extent, accompanied by all the evils of slave-trade, from which it is in no way distinguished, as far as the means of procuring the negroes are concerned." He adds, however, that the trade was now

* To 30th April 1859. (*Ed. A. S. R.*)

"prohibited; but that several cargoes had been shipped for Cuba during the last two years" (1857-8, 1858-9). The trade in slaves, *alias engagés*, is carried on from Angoxa, Comoro, Quilon, and Ibo, and the majority of slaves shipped are Malagashi.

In the absence of the Slave-trade Papers, which ought, according to the new arrangement, to bring our information down to the 31st of December of last year, we have no means of ascertaining whether the new French system of purchasing slaves, *alias* free-labourers, from the East Coast has really been suspended. But from the West Coast it was certainly being continued, down to the date of the most recent advices this year. As this traffic is admitted to be only another and a very specious form of slave-trade, and is not to be distinguished from it in its effects, we may allege, without fear of contradiction, that it has added materially to the number of negroes who have been conveyed away from both coasts of the African continent. Hence it is no wonder to find the reports from these parts rife with complaints of the great extent of the traffic in negroes, and it is most urgent that measures should be adopted by our Government to bring it to an end.

We have ourselves no faith in palliatives, and though we believe the appointment of a resident Consul at Abbeokuta, and overtures to the King of Dahomey, may result in perhaps stopping the traffic along the 120 miles of the West Coast north of the line, to which it is at present confined, the closing of these ports against the slave-trade would assuredly only drive the traffic further south, whence the bulk of negroes now exported to Cuba is obtained, and aggravate it on the East Coast. The root of the evil lies in Cuba. The demand alone causes the supply. It is then with Cuba, or with Spain rather, that the Government must deal. The resolutions relative to the suppression of the traffic which Mr. S. Cave will have brought forward in the House of Commons—too late for us to dwell upon them in this number—are not likely to lead to any result. Lord John Russell, however, has thrown out a proposition which appears to us to deserve serious consideration. It is only very much to be regretted that he did not refer to it last year, when the question of the slave-trade was mooted in the House. We shall not comment upon that proposition, but submit it in his own words, with a few of his preliminary observations.

At page 28, Class B., of the Slave-trade Papers, we find a despatch from Lord John to Mr. Christie, Her Majesty's Minister at Rio de Janeiro, dated from the Foreign Office, February 11th, 1860. His Lordship adverts to the awful extent of the slave-traffic in the preceding year, to the mode in which it is carried on, and to the flagrant delinquency of Spain in regard to her treaties. He then proceeds to add:

"Great Britain might enforce, by her own means, the observance of these treaties; but humanity recoils at a war undertaken to impose humanity by force and bloodshed. Every expedient ought to be tried before an appeal to this last part is made.

"Her Majesty's Government, therefore, propose that Ambassadors and Ministers of the Courts of France, the United States, Spain, Portugal, and Brazil, should be instructed to meet in London, in the month of June of the present year, to consider what measures can be taken to check the increase of the slave-trade, and finally provide for its total abolition.

"Her Majesty's Government would be prepared to lay before such a Committee their views on this important but distressing subject."

Similar despatches were addressed to Her Majesty's ministers at Madrid, Washington, Paris, and Lisbon, but the Blue Books, containing the despatch from which the foregoing extract is made, do not contain the reply to this very practical proposition. For the present we confine ourselves to submitting it to our readers, as the most important piece of intelligence the Slave-trade Papers contain.

THE SLAVE-TRADE AND THE SLAVE-STATES.

Mr. W. J. Forster, the new member for Bradford, has commenced his parliamentary career in a hopeful manner. On Friday, the 22d ultimo, he put a question to the Secretary of State for Foreign Affairs, relating to the position in which the British Consul at Charleston has been placed, in consequence of the intimation he had received from certain parties in temporary authority, claiming to represent the State of South Carolina, that the Custom-house functionaries of Charleston were no longer acting for the Federal Union, but for the independent State of South Carolina. This notification placed masters and owners of British vessels entering Charleston in a position of extreme difficulty, inasmuch as the non-observance of the regulations of the Federal Government, by masters of vessels entering the various ports of the Union, exposed them to very severe penalties. Hence a request on the part of Her Majesty's Minister at Washington, addressed to the American Government, to be informed whether British shipowners would, under such circumstances, be held responsible for non-compliance with the said regulations, or would indemnify them for any losses they might sustain in consequence. Mr. Forster asked for copies of the correspondence, alleging his reasons for thinking its publica-

tion desirable; reasons which have our entire concurrence. The real object, however, which he had in view, was to ascertain whether Her Majesty's Representative at Washington stood in any way committed to a recognition of the independence claimed for herself by South Carolina, and, by implication, to the secession federation. Lord John Russell's reply leads to the conclusion that the Consul had not—though placed in circumstances of extreme difficulty—so committed himself, but had conducted matters in a manner to give great satisfaction to his Government. Considerable credit is due to Mr. Forster for his ingenuity in devising a question which should furnish him an opportunity of eliciting information on a point of great interest to this country, in connection with the anti-slavery cause, without exciting acrimonious feeling. It was most important to learn whether the *de facto* revolutionary Government of South Carolina had been recognised in any manner by the British Consul, because such an act would most seriously have compromised our future position in relation to that State and its revolutionary adherents, in the event of their constituting themselves a separate confederacy. The modern policy of the British Government is to recognise all *de facto* Governments, be their origin revolutionary or legitimate. We take it for granted that, upon this principle, Great Britain would recognise a Southern Union, once constituted. But in so doing care must be taken that the slave-trade suppression policy, to which the Federal Government now stands committed by treaty, should be accepted by the new Confederation. In requiring this, there is neither injustice nor exaction of new conditions. At this time the slave-trade treaties extant between the British and the American Governments are binding not only upon the Confederation as represented at Washington, but upon each and all of the States of which it is composed. None of them can re-open the slave-trade, without a violation of treaty obligations, which would give Great Britain the right to demand redress. If, therefore, at the outset of our relations with the seceding States, we recognise their independence in any manner, without a perfectly clear understanding how far they consider themselves bound by the treaties to which they were parties while in the Union, there is great danger of their repudiating their actual obligations, and of their declaring themselves free to carry on the slave-trade, or not, as they may think fit. It is, therefore, so far encouraging to learn, that up to the present moment, no act of the British Consul's at Charleston can be construed into a recognition of the revolutionary State as an independent power. If the new Confederation provide for the permanent maintenance of Slavery, as a domestic institution, we have no right to interfere with that very unthrifty arrangement. But seeing that all the Slave States are bound to an observance of the slave-trade treaties with this country, as much and as fully as is the Federal Government, we have a perfect right to require—as one condition of recognising them in their new capacity, should matters go so far—that they should observe their actual slave-trade suppression obligations: a point which we believe to have been the object of Mr. Forster's very ingenious question, to bring out prominently. Its full importance will be at once seen when it is remembered that the re-opening of the African slave-trade is alleged to be a prominent feature in the policy of the new Southern Confederacy. Such a policy this country could not sanction, without a stultification of its own acts, for the last half century at least.

THE RESULTS OF EMANCIPATION.

In our Monthly Summary will be found a brief allusion to a meeting held on the 20th ult., at Willis's Rooms, to hear the report of the Rev. Messrs. Underhill and Browne, gentlemen connected with the *Baptist Missionary Society*, who, under its auspices, paid a visit to the West Indies in the autumn of 1859, and returned in the late spring of last year.

Seldom has it been our good fortune to attend a meeting in every respect so satisfactory; and admirably have the delegates performed their arduous duty. Their statements embraced facts bearing upon all the points which have been the subject of much bitter controversy, and it is rendering those gentlemen the barest justice to say that the mass of evidence they have collected presents the most conclusive argument in favour of the abolition of Slavery, and is the most complete vindication of the Act of Emancipation which has yet been submitted to public judgment.

It is not our purpose, in the present article, to do more than advert to the very remarkable experience of these gentlemen, who appear to have brought to their task the happiest alliance of enthusiasm and cool consideration. Mr. Underhill's logical array of facts would figure to advantage as a bright addition to our statistics of West-India history; while Mr. Browne's oratory supplies colouring to the picture of prosperity, of which those facts constitute the outline. Dark spots there are, assuredly; but the most brilliant landscape is dotted with sombre patches, and the most refined and highly-civilized communities are not without their moral and physical disadvantages, and their social abuses. If these exist in the midst of the emancipated population of our

West-India colonies—and unhappily they do exist—it is a consolation to receive the assurance of their being in course of rapid extinction. They must be regarded as the unclean garment which Slavery once wore; as the relics of a system of vice and degradation, now for ever abolished. But even with this drawback, we are told that the West-India communities compare favourably with those of any other country, while none have ever been placed in circumstances of such disadvantage.

Their social and moral progress offering satisfactory results, it follows that the moot point of their industry can also not admit of contradiction; and here, again, facts abundantly corroborate the theory that social and moral advancement is inseparable from industrious, thrifty habits. Admirably does Mr. Browne's eloquence serve, under these circumstances, to illustrate the fallacy of the bold, untruthful assertions made by the *Times* and by Mr. Trollope, of the indolence of the emancipated population. If indolent, whence has come their accumulated property of various kinds? If careless of their religious duties, whence have arisen their many houses of worship, and how are their ministers supported? These are questions which no negative can settle; and happily we are now in possession of facts which render a negative impossible.

Although Messrs. Underhill and Browne confined their observations pretty much to the condition of Jamaica—the least favourably situated of our West-India colonies—they intimated that they would apply with even greater force to the whole of them. On the vexed question of the scarcity of labour, they make the emphatic announcement that they were "unable to point out a single estate which had been abandoned for want of labour." Thus far our own assertions on this point are fully corroborated. They also shew that at least 150,000 labourers remain available in Jamaica, for the cultivation of sugar-estates, reiterating the statistics of Mr. Richard Hill, in his report upon the agricultural capabilities of the island. Whether this enormous mass of labour is always available, and if not, what are the circumstances which render it otherwise, are points on which there appeared to us to exist a degree of discrepancy further investigation may enable us to reconcile. The fact is one most important to be elucidated, for it has a direct bearing upon the question of the supply of foreign labour. It is one to the consideration of which we shall return.

We are glad to have this opportunity of acknowledging our indebtedness to Messrs. Underhill and Browne, for the service they have rendered to the cause of emancipation, in collecting and classifying so many facts vindicating an act which is being constantly indicated as the cause of the ruin of the West-India proprietary.

JUDGMENT IN THE CASE OF JOHN ANDERSON.

We defer to the wishes expressed by many of our friends in re-publishing, from the *Toronto Globe* of the 17th of December last, the judgment rendered in the case of John Anderson, in the Canadian Court of Queen's Bench, on the 15th of the same month. The presiding judges were Chief Justice Robinson, Mr. Justice McLean, and Mr. Justice Burns. As much of what Chief Justice Robinson said consisted of a recapitulation of the alleged facts of the case against Anderson, we abstain from repeating it, and reproduce merely such parts of his address as bear upon the points of law, or upon the interpretation of the treaty, according to which he gave the opinion that Anderson ought to be surrendered. On the other hand, we reprint at length the address of Mr. Justice McLean, which not only gives the facts, but enters into the law of the case, and shews how irregular were the whole proceedings anterior to the bringing up of the matter before the Court of Queen's Bench. The line of reasoning he follows, as the basis of his judgment in favour of Anderson's release, will be found to embrace all the strong points that can be urged on this side of the question.

EXTRACTS FROM CHIEF JUSTICE ROBINSON'S ADDRESS.

* * * *

"The arrest of the person now before us, for an offence committed in the State of Missouri, over which offence we have no jurisdiction, and his detention with a view to his being surrendered to the Government of that State, is a proceeding apart from our ordinary jurisdiction, and rests wholly upon the provisions of a treaty between Great Britain and a foreign Government, and if our statute passed in conformity with that treaty.

"We see in that statute the powers which are given to us, and to other civil authorities, for carrying out the treaty, and the provisions are precise in regard to the part which is to be taken by the different public authorities which are mentioned in it.

"In the first place a judge or justice of the peace, upon a proper complaint, is to issue his warrant for the apprehension of the alleged offender, and the judge or justices, who has issued such warrant, is the person before whom the evidence in support of the charge must afterwards be heard, and he must determine upon its sufficiency, and must certify to the Governor that it is sufficient, if he finds it to be so; sending at the same time a copy of all the testimony. And thus the Act says it is to be done, 'That a warrant may issue upon the requisition of the proper authorities of the United States, or of any of such States, for the surrender of such person,

according to the stipulation of said treaty; and the said judge, or the said justice of the peace, shall issue his warrant for the commitment of the person so charged to the proper gaol, there to remain until such surrender be made, or until such person be discharged according to law.' (Sec. 1.)

"The question which I am now considering turns upon what we must take to be meant by these last words in the clause, 'or until such person be discharged according to law.' Do they mean only until the person shall be discharged, under the express power given in the fourth clause, on account of delay in delivering him up? or do they mean, until he be discharged by either of the superior courts, or by any judge thereof, interposing upon an application of the prisoner, between the commitment by the justice and his actual surrender to the foreign country, and assuming the authority of discharging the prisoner, upon his view of the evidence on which the justice had decided? Whether the treaty, ratified as it has been by the Imperial Parliament, taken in connection with our statute, can be held to leave the superior courts in possession of any other power than the power to discharge the prisoner, under the 4th section, on account of delay in delivering him over, after he has been committed, and the evidence certified to the Government, is a question which we should probably feel it necessary carefully to consider, in conjunction with the judges of the other superior courts, before we exercised the power of discharging.

"No application under the 4th clause, upon the ground of delay, has been made to us, as I have already stated. Our interposition on any other ground, it may at least be said, is not clearly provided for in the Act, and it may be a question, since the whole proceeding is founded on a public treaty between two Sovereign powers, whether each party to that treaty cannot hold the other to a compliance with its terms, without impediment, from the exercise of a jurisdiction over the subject matter within either country beyond what is provided for in the treaty.

"I feel that, on the other hand, the argument is strong for the necessity of a controlling power in the superior courts, without which the Governor must be left with the responsibility of exercising, with the asistance of his legal advisers, whatever discretion he may find to be reposed in him by the statute.

"A more full consideration of this question by either of the superior courts, whenever it may become necessary, may probably result in removing any such doubts as I have stated, for two learned judges, of whose assistance we can, unhappily, no longer avail ourselves, have, in cases before them as individual judges in chambers, assumed that they had the power, in cases like the present, to examine into the correctness of the conclusions come to, by the committing justices, upon the sufficiency of the evidence."

* * * *

"With these authorities in favour of an examination by us of the testimony which has been returned by the committing magistrate, and with no decision that I am aware of to the contrary, we have not hesitated to consider the depositions which have been before us in the present case; and I will not forbear, in consequence of any such doubts as I have stated, to express my opinion upon the effect of them. I mean their effect in a legal point of view, when taken in connection with the treaty and our statute 22 Vic., ch. 89.

"And I shall do this in as general terms as I can, in order that nothing said by me here may prejudice a case of this serious description, which, according to the view we may take of the law, may have to receive the consideration of a jury, in the country where the offence is said to have been committed.

"I have not thought it necessary to dwell upon the proof of identity of the prisoner, or to refer particularly to the testimony of the witness, W. C. Baker, upon that point, which is direct and explicit; for the whole course of cross-examination of the witness on the part of the prisoner, and the very ground on which his discharge has been pressed, is founded upon his identity with the person who killed Digges, and on the fact which it is contended is manifest that he was engaged at the time in a struggle for freedom.

"The point which has been argued before us, and the only point, is what construction and effect it is proper to give to those words in the treaty and in our statute 22 Vic., chap. 8, sec. 1, (Consolidated Statutes of Canada), which, when read together in effect, provide that a person charged with committing within any of the United States of America any of the offences mentioned in the treaty, that is to say, murder or assault with intent to commit murder, piracy, arson, robbery, or forgery, 'and charged upon such evidence of criminality *as according to the law of the place where the fugitive or person so charged shall be found would justify his apprehension and commitment for trial, if the crime or offence had there been committed*,' may be apprehended upon complaint made under oath in order that he may be brought before the judge, or justice of the place, who has caused him to be apprehended, to the end that the evidence of his criminality may be heard and considered, 'and *that if, on such hearing, the evidence* be deemed sufficient by law to sustain the charge according to the laws of this Province, he shall certify the same, together with a copy of all the testimony taken before him, to the Governor of the Province, in order that a warrant may issue upon the requisition of the proper authorities in the United States, or of any such States, for the surrender of the person charged according to the stipulation of the treaty.' It will be observed, that in our part of the treaty, as recited in the statute, the evidence of criminality is required to be such 'as would justify *the apprehension of the party and his commitment for trial*, if the offence had been committed in the country where he is found,' while in another part the evidence is required to 'be such as shall be deemed sufficient '*to sustain the charge.*'

"Nothing can turn, I think, upon this variation of expression, but we must look upon the same thing as intended by both, for in the treaty, as in the commencement of the statute, it is declared to have been agreed by the two Powers, that offenders charged with certain offences, fly-

ing from one country into the territories of the other, should be *delivered up to justice*,—'Provided, however, that this shall only be done upon such evidence of criminality as, according to the laws of the place where the fugitive so charged shall be found, *would justify his apprehension and commitment* for trial, if the crime had been there committed.'

"This shews that nothing more can be meant by the other form of expression than by this, since, by the treaty, evidence sufficient *to commit the party for trial* is all that is required to warrant his being given up. And indeed it would not be reasonable to require more.

"I think '*the sufficiency of the evidence of criminality to sustain the charge, according to the laws of this Province, if the offence alleged had been committed therein*,' is to be determined by the judge or justice upon his view of the transaction, as described in the testimony, taken in connection with the law of the foreign State where it occurred, as regards the offence in question; and also with reference to the law which governs our own courts and magistrates in regard to the sufficiency of the evidence; that is, its sufficiency in point of legal character, and its adequacy to support the charge of the offence against the law of the foreign country.

"I will not take upon me to say that there is absolutely no ground for doubt or discussion upon the meaning of those words in the statute which I have last cited.

"I can see that what I take to have been the certain intention of the treaty, and of our statute, might have been more clearly expressed; but I really cannot say that I have any doubt that the intention was that the judge or justice who has heard the testimony is to determine whether the evidence of criminality, if fully credited by a jury, and not repelled in any essential point, is such that it can be truly said that the facts are strong enough, and the proof clear enough, according to the laws of this Province, to sustain the charge. What charge?—the charge in the case before us, of having committed, in the State of Missouri, the crime of murder.

"It has been argued, on the part of the prisoner, that both of the passages in the statute, in which the sufficiency of the evidence to prove criminality is spoken of, have reference to the law of this Province, not merely as regards the nature of the proof that may be received, and its conclusive tendency, but also to the law of this Province as regards the particular offence, and in relation to whatever circumstances may have influenced the party in committing the act. I cannot go the whole length of that argument, as it has been endeavoured to apply it in this case.

"So far as regards the means of proof, there can be no doubt that it is our law which must govern, according to the provision in the statute. If, for instance, the law of Missouri should admit a confession, extorted from a slave by violence or threats to be used against him, on a charge of this kind, we must reject such evidence notwithstanding, when produced here; and if, without it, the criminality should not appear to be established, the prisoner could not be detained. So, also, if the law of Missouri should allow evidence of a free man, not on oath, to be admitted against a slave charged with having committed a crime against a free man, the judge or justice could not act upon such evidence here.

* * * *

"But the construction contended for would seem to exact that there should be a similarity between the law of the State from which the person has fled and that of our country, in all the features and attributes of the particular crime. To some intent it might be reasonable to hold that the law of the two countries should be found to correspond. For example—if it were the law of Missouri that every intentional killing by a slave of his master, however sudden, should be held to be murder, without regard to any circumstances of provocation, or of any necessity of self-defence against mortal or cruel injury. I do not consider that a fugitive slave, who according to the evidence could not be found guilty of murder, without applying such a principle to the case, could legally be surrendered by the treaty. But I could not go to the length of holding that, because a man could not, in the nature of things, be killed in this Province while he was pursuing a slave, because there are not, and by law cannot be, any slaves here, therefore a slave who has fled from a slave state into this Province, cannot be given up to justice, because he murdered a man in that State, who was at the time attempting to arrest him under the authority of law, in order to take him before a magistrate with a view to his being sent back to his master.

"It would not be right, I think, to hold that the fugitive should, under such circumstances, not be surrendered, and to hold this without reference to what the positive law of that country might allow, or to the conduct of the party pursuing or of the party pursued, or to the knowledge of the latter that the purpose for which it was desired to arrest him was not contrary to the law of the country, or to the fact, (if it should be so,) that there was no apparent necessity to inflict death in order to escape.

"The statute has been about ten years in force, and, so far as I know or have heard, if the construction that is now insisted upon were established, it would be a new construction.

"Neither the treaty nor the statute can be taken to have been founded on a presumption that the criminal or the civil law prevailing in the territories of the two contracting powers would be found to be the same. In arson and in forgery, for instance, it is likely there may be points of difference as regards the descriptions of property, and of the written securities which it is the object of the law in the several countries to protect; though as regards murder, there is nothing in the evidence to establish that the legal definition of the crime is not the same in the State of Missouri as in Canada.

"Now, we know that a person who, in Canada, wilfully kills another without justification or lawful excuse, is guilty of murder—the law deeming the act to have been malicious.

"There is nothing before us to shew that the law is otherwise in Missouri.

"I use the word *excuse* in a sense that would include any circumstances of provocation, or

otherwise that should obviously in law reduce the act to manslaughter.

"The evidence which the justices had before them tends to show that Anderson, the prisoner, stabbed Digges, the deceased, while he, Anderson, was endeavouring to escape from him; and while Digges was endeavouring to prevent such escape and to take him before a magistrate, in order to his being restored to Mr. M'Donald, his master. Anderson was still in the State of Missouri, where he had been living many years, if not all his life time; and though he was twenty or thirty miles away from M'Donald, yet it rests only on his own declaration that he had resolved, if possible, to leave the State, and to escape from slavery entirely. Whether that was or was not his intention at the time, we see that the law of Missouri, of which such evidence has been received as by the existing state of the law both in England and in Canada is now admissible, (Baron de Bodes' case, 82 B. 208, 246, 256, Sussex Peerage case, 11 El. and Fin. 85) authorises any person to apprehend any negro or mulatto being or suspected of being a runaway slave, and to take him before any justice of the peace who may deliver him to his owner.

"It is true, it is not proved that the prisoner, if he was attempting to escape from Slavery altogether, or only from the immediate control of his master, was in either case committing any criminal offence against the law of Missouri; nor is it shewn that the law of that State made it the duty of Digges to apprehend him, under the circumstances in which he was found; but Digges having, as it appears, authority to take him up and carry him before a magistrate, under the general law of the State, it cannot be said that he was acting illegally at the time that Anderson rushed upon him and repeatedly stabbed him with a deadly weapon. He was acting under a legal authority as much as if he had been armed with process; the fact being proved, and not denied, that the statute law of Missouri applied to the prisoner under the circumstances under which he was; and unless Digges abused his authority, by using a degree of violence uncalled for by the circumstances, the killing of him was not justifiable, nor can it be said, I think, that the facts of the case lead plainly to the conclusion that the act of the prisoner, Anderson, should be held to be nothing more than manslaughter.

"Upon his trial on a charge of murder, if he shall be surrendered, and if he shall be tried for that offence, it will be for the jury to dispose of the case under the direction of a judge. There may then appear sufficient reasons to warrant the jury in taking a favourable view of the case, and to lead them to think it probable that the prisioner advanced towards the deceased and stabbed him under an apprehension that it was necessary, not merely to facilitate his own escape, but to save his life, or to avert threatened violence at the moment. But the case, in my judgment, is not one in which the justices at Brantford would have been warranted in assuming the functions of a jury, and intercepting a trial for the graver offence.

"We may be told that there is no assurance that the prisoner, being a slave, will be tried fairly and without prejudice in the foreign country; but no Court or magistrate can refuse to give effect to an Act of Parliament by acting on such an assumption; nor can we be influenced by the consideration (a very painful one in all such cases,) that the prisoner, even if he shall be wholly acquitted of the offence imputed to him, must still remain a slave in a foreign country.

"That was a consideration to be entertained while the subject of the treaty was under discussion, and before it became a law. It might also have engaged attention in framing its provisions, and we cannot think it probable that it did not.

"But neither the treaty nor the statute makes allowance for the circumstance of a fugitive offender having been a slave in the country from which he fled. That is not recognised in the treaty as a reason against his surrender to be tried for murder, arson, or any other crime specified in the statute; though it could not have escaped attention, that the consequence of the surrender would be the putting the fugitive again in the power of his master, in case of his acquittal.

"Those who are to act judicially in carrying the statute into effect must, so far as the statute allows, carry out the treaty faithfully.

"They have no right to decline doing so on account of any distinction or consideration which neither the statute nor the treaty has made the ground of an exception; and when we say of a Court of Justice that they have not the *right* to take a particular course, we say the same thing in effect as that they have not the power. In my opinion, therefore, we are bound to remand the prisoner.

"If there has been any understanding between the Government of the United Kingdom and the American Government, or any instructions upon the subject of delivering up slaves flying from one of the United States to Canada, and charged while here with having committed in the United States some one of the crimes mentioned in the treaty, it is probable that the Governor of the Province is aware of such understanding or instructions; and his power under the statute or the treaty to surrender a fugitive, or to decline to surrender him, cannot be affected by any thing that may be said or done by us here.

"It is equally clear that the justices who had to deal with the case in the first instance, or we who are applied to as a Court of Law to overrule their decision, must conform to what the law requires, and are not at liberty to act upon considerations of policy, or even of compassion, where a duty is prescribed. To use the words of a great Judge, in dealing with a case in which Slavery and its consequence were discussed — "'We cannot in these points direct the law; the law must rule us.'"

MR. JUSTICE M'LEAN'S ADDRESS.

"I always differ from the learned Chief Justice with extreme diffidence; but there are occasions on which I find it impossible to come to the same conclusions that he arrives at, and this is one of them. I will give my reasons for entertaining an opinion different from his. The prisoner has been brought before us from the gaol of the county of Brant, upon a *habeas corpus*,

issued by order of this court during the present term, and in compliance with the injunction contained in the writ the sheriff has returned the warrant under which the prisoner has been detained in gaol, for the purpose of shewing the day and cause of his taking and detainer. The evidence taken before the justices of the peace, by whom the prisoner was committed to gaol, has also been brought before us by certiorari.

"Upon this return and evidence we have now to inquire whether the prisoner has been legally committed, and whether he is legally detained in custody.

"The information and complaint, as it is called, appears to have been made by one James A. Gunning, of the city of Detroit, so far back as the 13th day of April last, before William Mathews, Esq., a justice of the peace for the county of Brant, and sets forth that one John Anderson did, on the 28th day of September, 1853, wilfully, deliberately, and maliciously murder one Seneca T. P. Digges, in the county of Howard, in the State of Missouri, one of the United States of America—all of which the deponent verily believeth. Whether any warrant was issued on this complaint, or if a warrant was issued, when or where it was executed does not appear. The magistrate, in the absence of any more positive information than mere belief of such a crime having been committed, might well have hesitated before issuing a warrant to apprehend the prisoner, and, without being chargeable with any dereliction of duty, might have called for some proof of a murder having been committed, and of the identity of the party accused as the murderer. No other information or complaint is given as the foundation for issuing the warrant, and I must therefore assume that it was issued on that complaint alone.

"The 1st section of chapter 89 of the Consolidated Statutes of Canada, respecting the treaty between Her Majesty and the United States of America, for the apprehension and surrender of certain offenders, provides that *upon* complaint made, under oath or affirmation, *charging* any person found within the limits of the Province with having committed, within the jurisdiction of the United States of America, or of any such States, any of the crimes enumerated or provided for in the treaty (viz. murder or assault, with intent to commit murder, or piracy, or arson, or robbery, or forgery, or the utterance of forged paper), any of the judges of any of Her Majesty's superior courts in this Province, or any of Her Majesty's justices of the peace in the same, may issue his warrant for the apprehension of the person so charged, that he may be brought before such judge or justice of the peace, to the end that the evidence of criminality may be heard and considered. Whether the affidavit of Gunning, that he believed the crime of murder had been committed by one John Anderson, was sufficient or not, it is clear that the justice of the peace thought it so, and acted upon it; for during the whole examination, in reference to the charge, he professes to proceed upon it as a charge made by J. A. Gunning, though, in the warrant of commitment, the prisoner is stated to be charged on the oath of William C. Baker, of Howard county, Missouri, and others, the name of Gunning nowhere appearing during the whole investigation, except as swearing to his belief in the original affidavit. If the prisoner had been brought up on *habeas corpus*, while in custody, on a warrant issued on that affidavit alone, I incline to think that he would be entitled to discharge, from the want of such a *charge* as is contemplated by the statute to justify the issuing of any warrant; but being in custody, and further proceedings having taken place, and the evidence of criminality being heard and considered by the justice of the peace, and the prisoner in consequence committed to gaol until delivered by due course of law, the question is, whether he is now detained in legal custody. The clause of the statute, to which I have referred, provides, that if, on the hearing of the evidence of criminality by the justice of the peace, it is deemed sufficient by him to sustain the charge according to the laws of this Province, if the offence alleged had been committed herein, he shall certify the same, together with all the testimony taken before him, to the Governor, that a warrant may issue upon the requisition of the proper authorities of the United States, or of any of such States, for the surrender of such person according to the stipulations of the treaty; and the justice of the peace shall issue his warrant for the commitment of the person so charged to the proper gaol, there to remain until such surrender be made, or until such person be discharged according to law. The commitment under which the prisoner is in custody is certainly not in conformity with the statutes either in form or substance. There is nothing on the face of it to indicate that any evidence has been examined by the justices who signed it touching a complaint against the accused for an alleged murder in the State of Missouri; nothing for shew that the justices, having heard and considered evidence of criminality, on a charge of such an offence against the prisoner, have considered the same sufficient to sustain the charge according to the laws of this Province, if the offence alleged had been committed therein; nothing on the face of it, except a recital that the prisoner had been on that day charged, apparently for the first time, on the oath of William C. Baker, of Howard county, in the State of Missouri, and others, for that he did, in that county and State, on the 28th day of September 1853 (exactly seven years before the date of the commitment), wilfully, maliciously, and feloniously stab and kill one Seneca T. P. Digges, of the same county. For this alleged offence all or any of the constables of the county of Brant are commanded to take John Anderson, and safely to convey him to the common gaol at Brantford, and there to deliver him to the keeper thereof; and then the keeper of the common gaol is commanded to receive John Anderson into his custody in the said common gaol, and there safely keep him until he shall be delivered by due course of law. The commitment is nothing more or less than an ordinary commitment to the common gaol at Brantford for trial for an offence alleged to have been committed in the State of Missouri, one of the United States of America. Now, what is the due of course of law by which the accused is to be delivered in such a case? There is no course

of law in this Province which can take cognizance of such a case; none by which he can be delivered from the gaol, except that which has now been adopted. There is nothing before us to shew that the justices of the peace, who have examined the evidence, or rather the justice of the peace who certifies the evidence, as having been taken before him, has come to any determination that it is sufficient to sustain the charge according to the laws of this Province, if the alleged offence had been committed therein, or that he has certified his decision on the evidence, together with a copy of all such evidence, to the Governor. It is not unreasonable to assume the contrary, or, at all events, that he has arrived at no decision, from the fact that the prisoner has not been committed to gaol by him, there to remain until a surrender is made upon the requisition of the proper authorities, as required by the statute, or until discharged according to law. By this commitment the prisoner is not in custody awaiting a surrender under the treaty with the United States, but is in gaol awaiting a discharge according to law. If the object and intent of the commitment were plain upon the face of it, so that we could take judicial notice of it, this court might remedy any mere technical defects, and correct any want of form. The case of the King *v.* Marks and others (8 East 157), and the form there given, shew that this may be done in ordinary cases, but as the commitment in this case must depend upon the view which the justice of the peace may have taken as to the sufficiency of the evidence to sustain the charge, according to the laws of this Province, and we have no means of knowing what that view is, we cannot, as it appears to me, take it upon ourselves to make an amendment in the commitment, which would only be correct in one state of circumstances. The same objection exists to the sending back of the commitment to the magistrate, with directions for him to make the necessary amendments to remove the legal objections. We have no right, as it appears to me, to assume that there is any thing that requires amendment in the commitment, inasmuch as it depends upon the view the justice of the peace may have taken of the evidence, and the certificate or return which he may have made, if he has made any, to the Governor, whether an amendment may or may not be necessary under the statute. Then, as to the designation of the offence with which it is alleged the prisoner was charged on the 28th of September last. It is stated that he was, on that day, charged, on the oath of William C. Baker, and others, without stating who those others were, for that he did, in Howard county, in the State of Missouri, on the 28th day of September 1853, wilfully, maliciously, and ferociously stab and kill one Seneca T. P. Digges. That is the offence alleged to be charged by William C. Baker and others, to have been committed by Anderson, and the charge is stated to have been made on a particular day, long subsequent to the information and complaint said to have been made by J. A. Gunning, so that the latter appears to have been abandoned, and all proceedings under it, if any were adopted up to the 27th of September last. There is no charge of murder in the offence alleged against Anderson by William C. Baker, and we cannot assume that it was intended to prefer a charge for murder, for in truth the deposition made by Baker before the justice of the peace, which is returned with the evidence, contains no charge whatever against the prisoner. He expressly says in his deposition, that *he did not see the wound made* of which Digges is said to have died, and that he came to this Province employed and paid by the county of Howard for the purpose of identifying the prisoner. He does not pretend to give any statement of his own or to make any charge against the prisoner. All he does say as to the cause of tho death of Digges, he says Digges told him, so that in truth the greater portion of what his deposition contains is a detailed statement of his several conversations with Digges. He says he saw Digges twice after he was wounded, the last time four days before his death; that he lived fourteen days after being wounded, and the first time he saw him that he told him certain things of which a detailed account is given; that Digges appeared to be suffering very much, and the doctor said he would die from the wound. There is nothing, however, in the whole statement, as given by Baker, to shew that Digges related the circumstances under the conviction that his wound would certainly prove fatal. It does not appear at what period of Digges' illness the statement was made by him. It was at Baker's first interview with him, when, as Baker says in his deposition, Digges understood what he was talking about. That statement, in the absence of any proof that it was made by Digges in the full belief that his life was drawing speedily to a close, ought not to have been received, and cannot be considered as legal evidence, so that without the necessary requisites to confer that character on the hearsay statements of Baker, they cannot possibly form the foundation of a criminal charge against the prisoner. In fact, then, there is no charge on the oath of William C. Baker, such as is stated in the commitment against the prisoner. Then there is the testimony of Benjamin F. Digges, a son of Seneca T. P. Digges, who was with his father at the time he was stabbed, and who at that time was a little better than eight years of age. He gives an account of a coloured man being pursued by his father and four negro men and boys, his slaves, for the purpose, as he supposes, of capturing him, and returning him to a state of Slavery with his former master. He states that his father was in pursuit of the coloured man about a mile from his own house when he was stabbed; that he had got over a fence, and had proceeded five or six yards, the witness being then on the fence, when he and the coloured man met; that his father was first stabbed in the breast, and after that turned to run away; that his foot caught or hung in some vines, and he fell, and the man then stabbed him in the back, and ran away; that his father got up after receiving the last wound, and walked fifteen or twenty yards, when he again fell; that he remained where he last fell about an hour, nobody being with him but the witness, the parties being still running after the nigger, as the coloured man is called; that after this some one was heard hallooing,

and being answered by the witness, by desire of his father, Dr. Crew and one of Digges' slaves, came to where they were. He then describes how his father was taken to the house of Dr. Crew, about half a mile from where the wound was inflicted, where he remained till he died. This witness says very candidly that he had never seen the coloured man who stabbed his father before that time; that the prisoner was about the colour and size of the man, but *he would not swear he is* the man. On his cross-examination he admitted that the negroes ran in a circle; that his father and he went across, and that his father had just got over the fence when he and the negro met; that his father had a little stick in his hand, and struck the negro with it; but not, as he alleged, till the negro ran at him with an open knife; that the stick *caught on some bushes and broke*, and the negro then stabbed his father; that one of his father's coloured boys was about two yards off when his father was stabbed.

"The statement of this boy contains in itself no charge against the prisoner, if he is unable to say that the prisoner is the man by whom his father was stabbed; but it was taken no doubt to support a charge previously made, as was also the testimony of his brother, Thomas D. Digges, as to the dying declaration of his father. So far as the statement is confirmed to these declarations relative to the cause of death and the circumstances connected with it, it forms admissible evidence even upon a trial for murder, and could not be excluded in such an investigation as that conducted by the justices of the peace in reference to the case of the prisoner. Unfortunately, however, the dying declarations of the father are so mixed up with individual statements of the son, that it is sometimes difficult to distinguish the one from the other. This witness was not at home when his father received his wound, and consequently could personally give no testimony as to what preceded it except from hearsay. He professes to give his father's declaration to him a few days before his death, when he was aware that he would die, and then at the close of it adds some comments of his own as to the lightness of pan-wood, and the size to which it grows, though in his father's statement there is nothing to shew that the stick with which he struck at the negro in defending himself was of that description of wood. He also makes statements as to the comparative weight and strength of his father and the negro by whom his father was stabbed, and the object of his father in pursuing the negro, and his desire to catch him and return him to Slavery; but these statements may have been elicited in answers to questions put to the witness, and are only objectionable so far as they are mixed up with the evidence of the dying declarations of his father. As to such declarations "made in extremity, when the party is at the point of death, and when every hope of this world is gone," though they are admissible from necessity in cases of homicide, they are not free from objections. For there is, first, the danger of perjury in fabricating declarations, the truth or falsehood of which it is impossible to ascertain. Secondly, the danger of letting in incomplete statements, which, though true as far as they go, do not constitute the whole truth. And, thirdly, the experienced fact, that explicit reliance cannot in all cases be placed in the declaration of a dying person, for he may have survived the powers of his mind or his recollection, if his senses are not impaired by pain, or otherwise may not be perfect; or for the sake of ease and to be rid of the importunity of those around him, he may say or seem to say whatever they may suggest. In the evidence of the declaration Digges in *extremis*, the conversation alleged to have taken place between him and the negro previous to the latter attempting to escape is given, and it is there stated that the negro in reply to questions put to him, acknowledged that he *belonged* to a man of the name of M'Donald, but did not want to live on the other side of the river, and that Samuel Brown had his wife.

(*To be continued in our next.*)

SOUTH CAROLINA'S DECLARATION OF INDEPENDENCE.

We append the copy of a State Paper, which is worthy of record, as it is of attentive perusal, as a testimony to the power and the importance of the anti-slavery movement in the United States. The reasons given for secession are all so many admissions of the efficacy of the efforts—so frequently repudiated and decried—made in the North for the abolition of Slavery. Should the disunion become an accomplished fact, that detestable institution will assuredly receive thereby its death-blow.

DECLARATION.

"The State of South Carolina, having determined to resume a separate and equal rank among nations, deems it due to herself and the remaining United States of America and the nations of the world, that she should declare the causes which led to the act. In 1765, that portion of the British Empire embracing Great Britain, undertook to make laws for the government of the American colonies. A struggle for the right of self-government ensued, which resulted, on the 4th of July 1776, in a declaration by the colonies, that they are, and of right ought to be, free and independent States, and that, as free and independent States, they have full power to levy war, conclude peace, contract alliances, establish commerce, and to do such things as independent States have the right to do. They further solemnly declared, that whenever any form of government becomes destructive of these ends, it is the established right of the people to alter and abolish it, and institute a new government. Deeming that the Government of Great Britain had become destructive of these ends, they declared the colonies free and absolved from

allegiance to the British crown, and the political connection between them and Great Britain was totally dissolved."

"The right of a State to govern itself, and the right of the people to abolish a Government when it becomes destructive of the ends for which it was instituted, were expressed when the colonies separated from the mother country, and became free and independent States. The parties amending the Constitution on the 17th of September 1787 were the several sovereign States."

"On the 23d of May 1788, South Carolina, by a convention of her people, assented to the amended Constitution of the United States. The failure of one of the contracting parties to maintain Constitutional obligations releases the other. Fifteen of the Northern States have deliberately refused for years to fulfil their constitutional obligations. We would refer to those States for a proof of this. When the fourth article of the Constitution was adopted, the greater number of the contracting parties held slaves. The hostility of the Northern States to the institution of Slavery has led them to disregard their constitutional obligations. The laws of the general Government have ceased to effect the objects of the Constitution. Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York, Pennsylvania, Illinois, Indiana, Ohio, Michigan, Wisconsin, and Iowa, have enacted laws, either nullifying the Constitution, or rendering useless all attempts to execute the acts of Congress. In many of these States, fugitives 'held to service and to labour,' have been claimed, but in none of them has the State Government complied with the stipulation on this subject, made in the Constitution."

"In the formation of the Federal Government, each State was recognised as an equal; the right of property in slaves was recognised by giving all free persons distinct political rights; by giving them the right to represent, and burdening them with direct taxes for three-fifths of their slaves; by authorising the importation of slaves for twenty years, and by stipulating for the rendition of fugitives from labour. The ends for which this Government was instituted have been defeated, and the Government itself made destructive by the action of the non-slaveholding States. These States assumed the right of deciding upon the propriety of our domesticinstitu tions. They denied the rights of property established i fifteen States, and recognised by the Constitution. They have denounced as sinful the institution of Slavery; have permitted the open establishment of Societies whose avowal and object are to disturb the peace and prosperity of the citizens of other States; they have encouraged and assisted thousands of our slaves to leave their homes, and those who remain have been incited by emissaries, by books and pictures, to servile insurrection. Twenty-five years this agitation has been steadily increasing, until they have secured the power of common Government. Observing the forms of the Constitution, a sectional party has found within that article establishing an executive department, means of subverting the Constitution itself. A geographical line has been drawn across the Union, and all States north of that line have united in the elevation of a man to the high office of President of the U. S. whose opinions and purposes are hostile to Slavery. He is to be entrusted with the administration of the common Government, because it is declared that a Government cannot endure permanently half slave and half free, and that the public mind must rest in the belief that Slavery is in the course of ultimate extinction. The sectional combination for the subversion of the Constitution has been aided in the States by elevating to citizenship, persons who, by the supreme law of the land, are incapable of becoming citizens, and their votes have been used to inaugurate the new policy hostile to the South, and destructive to its peace and safety. On the 4th of March next, this party will take possession of the Government. It has been announced that the South shall be excluded from the common territory; that the judicial tribunals will be made sectional; that war must be waged against Slavery until it shall cease throughout the United States. The guarantees of the Constitution will then no longer exist—equal rights of the States will be lost—the slaveholding States will no longer have the power of self-government or self-protection, and the Federal Government have become their enemy. Sectional interests and animosity will deepen the irritation, and all hope of remedy is rendered vain by the fact that the public opinion of the North has invested the political error with the sanction of a more erroneous religious belief.

"We, therefore, the people of South Carolina, by our delegates in convention assembled, appealing to the Supreme Judge of the world for the rectitude of our intentions, have solemnly declared the Union heretofore existing between this and the other States of North America, dissolved, and that the State of South Carolina has resumed her position among the nations of the world as a free, sovereign, independent State, with full power to levy war, conclude peace, contract alliances, establish commerce, and do all other acts and things which independent States have a right to do; and for the support of this declaration, with a firm reliance for protection on Divine Providence, we mutually pledge each other our lives, our fortune, and our sacred honour."

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